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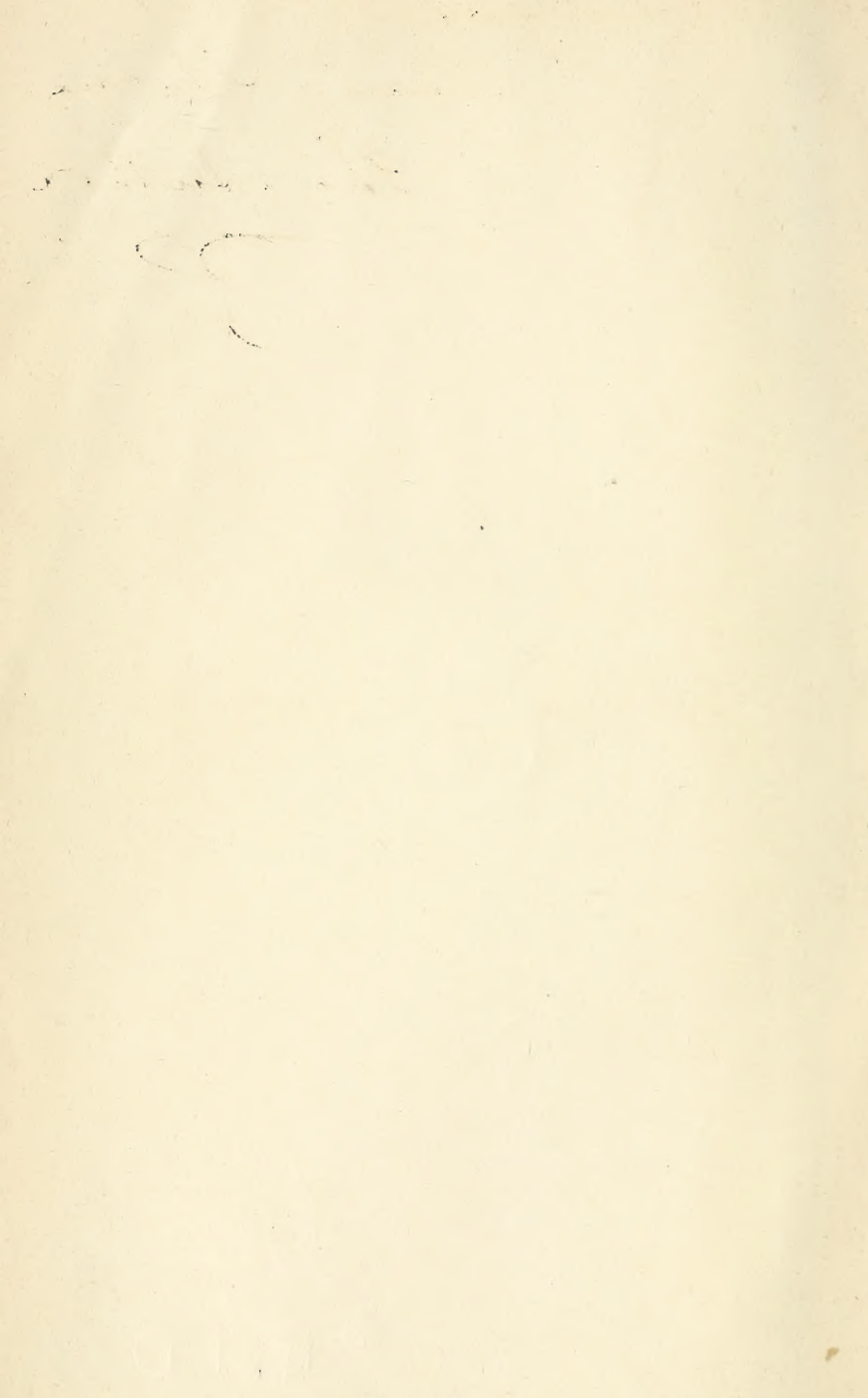




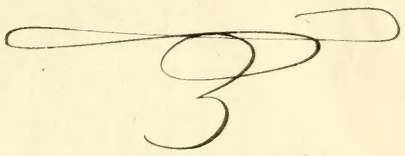
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To his friend  
Simon Sterne  
The Author  


A CRITICAL REVIEW  
OF  
AMERICAN POLITICS

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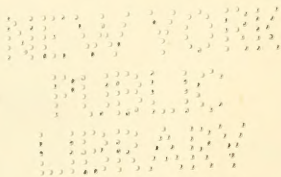


A CRITICAL REVIEW  
OF  
AMERICAN POLITICS

BY  
CHARLES REEMELIN

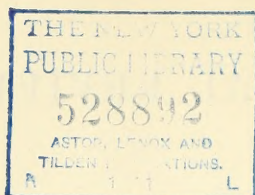
"He that seeks the truth and proposes to publish it, must not have the love of country, that would keep him from searching into its realities. He must be above the externals, that are apt to deceive and influence men to be partial."

SEUME.



CINCINNATI  
ROBERT CLARKE & CO.

1881 J.



"Asia counts her public experience by millenniums ; Europe by centuries ; America by decennials. Mark the distinction—it is the key to the understanding of their respective institutions."

—ROBERT VON MOHL.





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AMERICAN WOMEN  
 OLIVER W. HOLMES  
 1870-1871

## PREFACE.

"Not to be offended at honest criticisms protects against flatterers."

—*Machiavelli.*

♦♦

THE author having written the last chapter of this book, and its design and scope being fully before his mind, desires to offer, by way of preface, a few personal explanations.

It seemed to him that to American politics apply the words of Pope in his "Essay on Man;" that they are—

"The glory, jest, and riddle of the world."

Its "glory," on account of the immense material progress that has attended the course of American society; its "jest," because self-overestimation possesses its popular mind; and its "riddle," for the reason, that the political premises and ideas on which they have acted, and which once the world applauded, are now seen to be erroneous and productive of great evils. The author had to presume, that a people thus situated, would take unkindly to a critic, especially if, like himself, he was foreign-born; that they would accuse him of a lack of patriotism, wherever he failed to share the national prejudices; and that if the expected praise would not be given, or blemishes were unexpectedly exposed, it would be ascribed to any but the true motives. He knew that moderation in national self-admiration is not regarded as a virtue in America, and that but few would appreciate the wisdom contained in the above quotation from Machiavelli. He had therefore frequent misgivings, while writing these pages, as to the reception they would meet when published; but he wrote on to the end, hoping that observations, dictated by an experience of forty years in public



life, would after all find a few intelligent and liberal readers, who would appreciate their sincerity.

The author saw no disqualification for his task in his foreign birth, indeed his opinion leaned the other way ; for he believed, that a person may be the critic of an adopted country without being an ingrate, and that he might be its admirer without being a sycophant. He apprehended, however, that having to write in an idiom, which he learned, since he left school, may make his style and composition look awkward to fastidious eyes ; and he would humbly request his readers to judge him rather by the standard of how far a German may capacitate himself for writing in English, than by that of the proficiency of those, whose mother-tongue it is. He confesses to the weakness, if weakness it be, of a constant fond attachment to the literature of his native land, and that there he gained most of his knowledge of the political subjects he discusses. He is firm in his belief, that this has qualified him for the chief duty of his work—that of comparative research ; and that his capacity to judge American politics has thereby been improved. He hopes he may with propriety state the fact in this connection, that the best publications on American affairs have been written by foreigners ; and the reason can be no other, than their occupying a position and having a culture, that enabled them to see without bias, and to comprehend men and things without national prejudice.

While composing the several chapters, the author could not fail to become aware, that he was laying down conclusions, that differed from some of the views formerly expressed by him in reports and remarks to legislative bodies, or in addresses to the public, as well as in contributions to the press ; and he can now only ask that the opinions and principles herein expressed be taken as his maturer conceptions, since they flowed from a much more comprehensive inquiry and treatment of the respective public questions, than had been the case in former publications. The negative reasoning, usual in the school (the democratic) to which the author was attached, had to be abandoned, and the positive mode of scientific ascertainment substituted. The oft-repeated question : Who shall be denied public authority ? was changed to the true issue : Who shall be desig-

nated to perform the respective public duties? Instead of a disjointed federal combination of antagonizing bodies-politic, he had now to use for his standard an entirety of states in union, that co-operated in a federal organism, in which every political function could and should have its appropriate organ at all times and for all public exigencies. Federalism, that had before been to him a lamentably lame and barren conjunction of quarrelling governments, became thus in his mind a possibility of a harmonious union of all political forces, each attending to that, for which it was superior. And fidelity to this, to him so fertile train of reasoning, and not consistency with now obsolete opinions, had therefore to be the standard in his work. It has served him well, and he can sincerely recommend it to the reader.

Thus asserting the right of logical free-thinking, brought the author to the perception, that whilst the United States had on paper an organic and constitutional, they had in practice an inorganic party government. And that led to the perception, that this perversion caused the inefficiency in the public service, which is the great American public disease; because it places public administration, from the President down to the township officers, with few exceptions, into the hands of mere politicians; whom to call statesmen, would be a falsehood.<sup>1</sup> The author had to animadvert on these facts as they deserved, and has done so; which, of course, subjects him to the accusation, that the animus of his observations is disappointment in not having himself as successful a public career as he desired. Against this he can simply state the truth, that he has openly and unreservedly denounced these abuses for thirty years, and that he did it as soon as he became cognizant of this political wrong. And all this time a surrender of his convictions, or even a truce with the evil influences, would have secured him power and emoluments; but he adhered, and now adheres, to a remark frequently made

<sup>1</sup> The two parties of the United States resemble the married couple, who spoiled each other's planting. The husband planted, unknown to his wife, salad; she, just as secretly, beans. Each weeded out in secret the other's planting, unconscious of the other's sowing. She treated the salad as weeds, he the beans, and between them no crop was raised. A similar spite-work keeps America from having a good government.

by him: that American party government, with its spoils-system, "is an illegitimate parasite, that is more destructive of legitimate public interests, and eats up more of the substance of the people, than any tyranny recorded in history."

He claims for his work the indulgence always accorded to a *first* effort towards a philosophic treatment of a given subject of thought. The Introduction will explain in what sense he asks these pages to be so regarded; and their contents will show, that he has attempted no more and no less than a comprehensive review of American politics from the standpoint of comparing them as they actually are, with what they ought to be. The reader was presumed to be acquainted with this ethical standard and to know, that the study of a nation's politics, by that criterion, involves an inquiry into the character of the formation of its rightful public will, and that objective comprehensiveness in aid thereof is all that should be attempted in a book composed for this purpose.<sup>1</sup>

Much has been written, spoken, and published on the several points touched upon by us; but as it has never been brought under the focus of a comprehensive course of political reasoning, it was and is a mass of public thinking that, for its barren sameness, baffled reflection, instead of aiding it. Hence we felt, and thought that others must feel, the want of a collective, yet contrastive elimination, so that we may find ourselves to rights in our political labyrinth. This, so far as we know, has never been attempted before. We undertook it first for our own instruction, and, finding it satisfactory, rewrote it for publication, believing it would be useful to the public mind. And we bespeak for it, that lenity which the pioneer people (for whom it is composed) has ever claimed as well as vouchsafed to the labors of those who work for them.

It was originally intended to publish in an appendix to this book, and as a sort of manual, the papers and documents named below; but the idea was abandoned on the advice of friends, who thought it would make the volume unnecessarily and in-

<sup>1</sup> It may be well to add here (perhaps a still better criterion) the remark of J. von Müller, the historian of Switzerland, that "the truest distinction between governments consists in the different ways, that have to be pursued to obtain power in them."



conveniently large; and that they could easily be procured by the respective reader. The several chapters being, however, written with the aforesaid presupposition, it may be well to advise the reader to procure the same and have them by him, during the perusal of these pages; for he will find them useful towards a thorough understanding of American politics.

Charles Dickens remarked once: "that had he lived in America, his works would never have been written, and if written, not appreciated." The accusation, that lurks in these words, has some truth in it, so far as it exposes the indifference of American readers to books written with a view to the correction of social and political malformations. But as our work was done with no expectation of profit or popularity, Dickens's remark has not discouraged us, and it is issued as a free contribution to what the writer felt to be a public want. If it corrects a single false public humor, it has not been written in vain.

THE AUTHOR.

---

*List of Papers and Documents above referred to.*

- An Outline Map of America.
- Franklin's Union and Land Plan, 1754.
- The Declaration of Independence.
- The Articles of Confederation, 1783.
- The Ordinance of 1787.
- The Constitution of the United States, with Amendments.
- Washington's Farewell Address, 1794.
- The Kentucky and Virginia Resolutions, 1798.
- Jefferson's Inaugural Address, 1801.
- Jackson's Farewell Address, 1837.
- Lincoln's Inaugural Address, 1861.
- The Democratic and the Republican Platforms, 1876.
- Samuel J. Tilden's and Rutherford B. Hayes's Letters of Acceptance of the respective nominations, also 1876.



## BRIEF SKETCH OF THE AUTHOR'S LIFE.

---

HE is a native of South Germany, and immigrated to the United States, eighteen years old, in 1832. He was there in successful mercantile business for twelve years, when he retired to a farm near the city of Cincinnati, where he has lived ever since. In 1844 he was elected to the Lower House of the Ohio Legislature, and in 1846 to the Senate thereof. In 1850 he was chosen a member of the Ohio Constitutional Convention, and to him is due the best provision in that instrument: a self-acting apportionment provision for Assembly districts, whereby the wrongs of so-called "Gerrymanders," or arbitrary apportionments of members by counties for party purposes, was for ever prevented. The clause has since been adopted in several other State Constitutions.

In 1856 he was appointed Reform School Commissioner, and advised as such the establishment of the State Reform Farm, near Lancaster, Ohio, after the model of the Institute near Mettray, in France, which measure was sanctioned by the Legislature of Ohio, and is now in as successful operation as under the partisan government of the American States is possible.

He was, in 1854-55, Bank Commissioner of Ohio, and had to examine some thirty-four banks. His reports led to several reforms in their administration.

In 1858 he was chosen an Examining Commissioner into the large defalcation in the Ohio State Treasury, and he wrote the larger part of the valuable exposition of the frauds and peculations then perpetrated between the banks and State officials and slippery politicians.

He has been a frequent contributor to the American press, both in English and German, either as editor or correspondent, namely, of the *Volksblatt*, *Volksfreund*, the *Pioneer*, and *Commercial* in Cincinnati; the *New York Evening Post* and *Bulletin*. The Ohio State Papers contain many valuable essays of his on various subjects; the ones on the "Climate of Ohio" deserving special mention. He has written three books: "The Vine-



dresser's Manual,"—"The Wine-Maker's Manual,"—and "A Treatise on Politics as a Science." In 1846 he was admitted to the practice of the law by the Supreme Court of Ohio; and in 1871 he was elected to the last office he has held, viz: President of the Board of Control of Hamilton County, Ohio.

He has mostly acted with the so-called Democratic party; but has early, and all the time, maintained an independent position towards it; never hesitating to combat it, when it sunk into corrupt conditions. Indeed, it must be stated, that to him parties, and especially party government, as they exist in the United States, have ever appeared as an evil, whose existence was to be recognized, but with a view to be abated; or, at any rate, to be ever brought back to being mere schools for political culture. English parties with recognized leaders, and as the understood constitutional organs for working out a wisely virtuous mature public will, were and are to him such organs, though he thinks they need reforms, so as to impart to them higher ethics and better political culture.

His thirst for knowledge has never been quenched, though he had full access to the fountains in several languages. Current literature and scientific research has been by him ever pursued in both English and German; and during a visit of Europe in 1873-74, he attended several German universities, sitting, an old man, as "*Hospes*" amidst young students, and hearing political economy, the science of government, and public administration discussed by their learned professors. He has himself been a frequent public speaker and lecturer, ever aiming at a higher tone of the public mind. The work before the reader he regards as a contribution towards the correction of the political abuses that exist in America, in pursuance of their defective and impure party organizations, which he looks upon as a blot upon its otherwise fair escutcheon.

President Hayes appointed him (1871), as Governor of Ohio, one of the Commission on mining, and proper laws for its regulation; and he prepared the majority report, including a bill in reference to the subject.

## INTRODUCTION.

“Allow me to introduce you to yourselves.”—*Ancient Athenian Oration.*

---

THE phrase : *American Politics*, in the title of this book, will appear trite to many, because the word “politics” has now a disagreeable sound in the public ear. But as our objective point is not euphony, but the discussion of concrete political conditions, we must remit those, who object to the cause that has led to the dissonance of an innocent word, to its history and changes of definition, and proceed to the object of this chapter, to wit : the introduction of the Americans to themselves.

The predicate “American” belongs to the people of the United States by universally recognized usage. They were the first to assert the right of America to be independent, and the act was called : *The American Revolution*. The signers of the Declaration of Independence named themselves : “The Representatives of the United States of America,” and this name was continued in the Articles of Confederation, and in the Constitution of 1787. The other nations on this Continent call themselves Canadians, Mexicans, West Indians, Brazilians, &c., and the whole world has fallen in with these respective designations. And Washington was right in saying in his farewell address : “The name—America—which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appellation derived from local discriminations.”

There is indeed nothing characteristic or descriptive in the name itself. It was accidentally first printed on a map by a German geographer in 1572. It sounded much finer to those who then first heard it, than it does in the English pronunciation.

The man (Vespucci) whose surname was like it, was innocent of the transfer of this appellation to the new Continent; he died, in fact, without knowing that it was discovered, and believing that only the eastern coast of Asia was reached. He never himself used or heard used the name "America," and Humboldt might well say of him in "Kosmos": "The Florentines' boastfulness (*Rühmredigkeit*) has brought upon him the misfortune of drawing upon himself the attention of the world more than he deserved." An ill-natured Englishman remarked thereon: "that America has certainly caught this peculiarity from its name-parent;" but an American bystander insisted that the national pride complained of, came from the mother-country. Be this as it may, the name is now a symbol of grand patriotic aspirations, and it signifies a peculiarly attractive political development. And when we speak of "American Politics," it refers by common consent to: Constitutional Republicanism; while if "*Asiatic Politics*" are mentioned, it designates: Absolutism, just as European Politics are understood to mean: Constitutional Monarchism. Indeed, the word "America" has much more a political than a geographical significance, and its character is, in this respect, rather cosmopolitan than national. Only lately it has become otherwise.

The statesmen and people of the United States always had, in using the name, the *arrière pensée*, that the whole Continent should be embraced within their one great federal Union; and this idea was retained in common speech even after other official appellations, that signified its infeasibility, had been adopted. The refusal of Canada to make common cause with the other North American Colonies in the Revolution, was the first counter-shock to this ideality; and when this same recusancy was repeated in 1812, and fraternization was again refused, it opened an old wound. Canada had been wrenched from France in 1760-65 by American valor, and it seemed so natural that the rescued country should respond to the more than cordial invitations (to come in) that were made from 1770-83 in the most public manner, and even by a special clause in the Articles of Confederation. It seemed, then, like a lack of true Americanism for any portion of so-called Anglo-Saxonism in America not to make common cause in building up the New

World. But to-day (and thenceforth evermore) it is being perceived that the elementary causes, that have in all parts of our globe prevented the union of the more northern countries with lands in the temperate or southern zones under one government, were operative then (1776) already. And we know that events are only adding intensity to the original natural, we might call them : instinctive, reasons.

It has been well said, that Franklin spake the blessing of freedom over America, that Washington baptized and nursed it, but that Jefferson's far-sweeping eye discerned its coming national grandeur. The last had made the history of national aggregations his special study, and he determined, that *here* nationalization should be the beginning and the ending of political organization. In Europe it had been an afterforcing together of feudal tenures and communities into larger conglomerates. And Jefferson meant, that "while Europeanism was an after-development, Americanism should be a predestination." Here, if there ever should be segregations, they should, as he purposed, be "like the partings of the full-grown members of an overnumerous family, who could not well remain together. The seceders were to be countrymen still, and for ever remain such. Once American, always American!" This idea possessed him as an unconscious inspiration, and he died without realizing, that it was the opposite of the ideals upon which his political school was founded. Nor did Virginia ever become aware, that it was the parent state of the grander American nationalism which came near crushing her afterwards, while New England was the mother of sectionalism.

This nationalization or Americanization, with its subsequent permissive sub-nationalism, sub-Americanism, or state-ism, found its legitimation in the two great public documents of 1787, to wit (first in time) : The Ordinance for the organization of the north-western territory, and : the Constitution of the United States of America. It could not well have existed before, because neither in England nor in Europe generally, had re-ripened, into a healthy revival, the old Roman idea of large areas under one government. And the British Colonies in America could not, so far as New England was concerned, have free western extensions, as long as France held its Canadian

and other western possessions. France was beforehand in making western settlements south of the Lakes, and they interfered with the desire for extensions on the part of New York, Virginia, and Pennsylvania. The latter was under the Penn-proprietary rule, which chafed and hindered all movements for western acquisitions. The French held Pittsburg as Fort Duguesne, which checkmated the western advance of Pennsylvania. Virginia had extended her lines indefinitely westward along the Ohio, and these settlements suggested to Governor Spottiswood, and after him to Dinwiddie, attempts to counteract French encroachments north of the Ohio. Washington was charged with expeditions of explorations for this purpose. The Albany-New York plan of a general union of all the British Colonies had also been inaugurated, and Franklin supported it zealously as the best way to overcome the lethargy imposed on Pennsylvania by the proprietary government.

National Americanism of our kind, needed, to be born, first of all the removal of French supremacy over any part of North American soil, and the accomplishment of that object became the first large uniting cause of British America. Had Canada fallen into line during the Revolution, and it is very questionable, whether North America would not have presented for years afterwards the spectacle which Australia presents to-day; to wit: several colonial governments on the sea-rim, with indefinite rival extensions to the interior. New England would then have found full employment for its western inclinations in Lower Canada and New York, in the upper province thereof and Michigan; Pennsylvania into Ohio, and so on. But with Canada standing out, with Pennsylvania impeded by her lame government, and with Virginia in advance possession on the Ohio, Scioto, and the Wabash, there was only one way for New England, New York, New Jersey, Pennsylvania, Delaware, and Maryland to share in the westward growth of the Union, and that was: the cession of all claims to western lands to the Confederacy or its successor—the United States. And the Ordinance of 1787 was the public act that consummated this work, followed as it was by similar acts for Tennessee and the other states. Virginia performed the main act; it had initiated the policy in its treatment of emigrants to Kentucky. New



York yielded reluctantly to the same process as to Vermont, and, later still, Massachusetts as to Maine. But Virginia deserves to be called : The mother of states, and of their nationalization.

In this connection it may be well to remember, that the America, which Washington contemplated, when he prepared his farewell address, was but one-fourth of the area, which now constitutes "The United States;" and that of it he asked: "Whether a common government could embrace so large a sphere?" And, unable to answer his own query, he added: "Let experience solve it! to listen to mere speculation, in such a case, were criminal; it is well worth a fair and full experiment." The intrinsic question of all nationalizations, that of ethics: whether it is right to try to subject to a single central authority, countries of extremes in climate, race, historic development, and interests? was thus handed over as an "experiment" to posterity, and it made bloody work of it seventy years afterwards. That such an experiment should not be tried under a government residing beyond seas, had been asserted by the sword and maintained; but the deeper issue: whether, even in countries united territorially, there are such diversities in the pursuit of happiness as to make it impossible for one central public will to bring harmony out of the natural and social antagonisms that are inherent therein? was only cursorily raised. Yet time keeps ever asking: Is not an unlimited national ambition the contradiction of all true nationalism—ethics? And does it not require a self-limitation as to aggrandizements to make a people's conduct compatible with civil liberty? The question may look impertinent to a people, that has ever believed, that it cannot be too powerful nor have too vast a country. At present we have only to say with Scherr: "When the fire of facts burns men's finger-nails, they smear over them the cooling salve of illusions."

Thomas Jefferson and his whole school acted on the assumption: that, provided the government remained republican and federal, it might be extended without limit. And when an opportunity occurred to purchase Louisiana, he seized it as a providential indication to secure to the country the territorial extension, which it needed for its full development. And he

would have suspected his own mind of some latent treason, had it hesitated as to the proposed annexation. He knew, indeed, that the purchase was unconstitutional, but his zest for the acquisition was so overwhelming, that he completed the transaction with the sanction of Congress, and without securing an amendatory provision to the Constitution, that would have cut off all the collateral constructions of it, for which this act opened the door. When, twenty years afterwards, the Missouri question came, it awoke him, as he wrote himself, "like an alarm-bell of fire at midnight;" but again he acquiesced in the abnormal settlement of the question by a congressional enactment, called: *The Missouri Compromise*. And he died without realizing, that making a state a member of a federal Union by Act of Congress was a perpetual denial of the inherent right of self-disposition in every human society, that is an organic body-politic, and capable of forming an ethical public will. He thus helped to reverse the very order by which true federal law is generated.

The first effect of Jefferson's annexation policy was an unsettling of the duties of loyalty; so that Aaron Burr felt himself justified to play the part of the Spanish *Conquistadores*, who magnified themselves by enlarging the realm, whose soldiers they were. Jefferson saw treason very quickly in Burr's conspiracy, but to his chagrin the public mind was indifferent and easily led on false scents, when punishment was to be meted out to the supposed traitor. The whole issue run out in the sands of constitutional dubiousness. And with a little change of programme, Sam Houston, Austin, and Lamar carried out afterwards parts of Burr's projects in Texas, and Fremont and Stockton quarrelled over similar questions of priority in the seizure of California. And as in olden times Sylla, Marius, Cæsar, Pompey, and other Roman politicians had provinces assigned to them as stepping-stones to the highest places in the empire, so have in our day, in America, territories been created and states formed out of them, as means to seats in the Senate and the House of Representatives, if not to the Presidency itself. It began with Louisiana; the last instance in our own day is Colorado, and the process is still going on. It proves the truth of Professor Schmoller's late remark, that

"the beginnings of malformations and the heights of development coincide in the life of nations."

How all-pervading the tendency towards boundless national ambition was, we see, when we read in the "History of the United States," published by Rev. C. A. Goodrich, and used in the schools and seminaries of America for many years, so that it influenced more minds than any other book, this passage: "What should prevent our country from advancing to that eminence of national happiness, beyond which national happiness cannot extend?" Aye! but where is that eminence? Gibbon suggests that "the causes of destruction multiply with the extent of conquest; that a stupendous fabric may yield to the pressure of its own weight; and that the inner strength is weakened as the distance to which power has to be extended is lengthened." A more modern writer (A. Lasker) sees it in conditions, "when a people are confronted by countless public riddles, which stunt present existence by cares for the uncertain future." The people of the United States had no such misgivings up to 1860. They applauded Jefferson for buying Louisiana, Monroe for acquiring Florida, Polk for annexing Texas, and Taylor and other military leaders for securing California and other parts of Mexico. And, alas! even Seward's purchase of Alaska was passed at a run under the old impetus; but then came the surfeit, and the rejection of the tender of St. Thomas and St. Domingo with evident displeasure. Whether the refusal was caused by the fact, that these islands were beyond seas, and that their purchase would involve complications in our foreign policy, or whether it was a wisely conscious self-limitation, is not yet easy to determine. We fear that the key to our public tendency is to be found in Lessing's words: "A people, so eager for gain, inquires but little whether it acquires it rightfully or wrongfully, or by cunning or force."

When we reflect on the history of Great Britain and its ancestral populatory make-up, it would seem, that the unbounded craving for more territorial area, that pervades both the Romanic as well as Germanic nations of Europe, until checked by superior martial power, actuates also their descendants in America. The Declaration of Independence already contains the covert assertion of a supremacy over North America, at least for the

United States, and it was more openly avowed in the Monroe doctrine. Its only effective and seemingly permanent checks were, as to lands, north of our own territory. That this northern bounding of our area extends from the Atlantic to the Pacific, and carries with it the nearest and best ports both to Asia and Europe, would seem to indicate that the old limitation of the ascendancy of southern genius by the steeled physical force of northern peoples, also operates on this Continent, and that it has caused the failure of our Canadian policy, including the surrender of Oregon to 54<sup>40</sup>. Southward we have ever advanced successfully, and have controlled Mexican politics even against the emperorship of the lamented Maximilian. It suggests queer vistas into the future to reflect on it, that it was a New York politician—Seward—who ignored the steady growth of Canada into a Dominion, which is now, while we are writing, receiving a princely occupant on its viceregal throne, and that another New Yorker Secretary of State—Ewarts—is looking on, if not co-operating; but that at the same time Mexico has been kept from establishing a firm public authority. This strength north of us, and this weakness south of us, will yet play a big part in our future.

The old *continental* Americanism has, we see, died out; and the *national* Americanism stands in its place. We can see its strong pulsations in the jealousy with which every attempt at alienation or secession is watched in the United States. It has, however, passed the aggressive mood, and has become conservative. But another Americanism, the pure Anglican species, is also disappearing, and lingers only in a narrow nativeism. The Liberal English leader (Gladstone) is kindly watering it by his articles “Kin beyond Sea,” and other visiting personages of literary renown assist in it; but America and its nature is now, as at the Revolution, too potent to be a mere English shadow or side-show of British Protestantism. The name American covers much more than Anglo-Saxonism, or even Indo-Germanism. There is an indigenous growth of Americanism, that moulds Europeanism here into a nationality of its own, and extirpates also Indianism and Africanism, as well as that little Chinaism. Even Canada, where Anglicism has its strongest hold, cannot be the American home of exclusive British pro-



clivities. Were New England and New York to be driven, by western and southern prejudices, into closer relations to the Canadian Dominion, and the Anglo preponderance might be much strengthened, and it might even influence our national Americanian; but there is by this time too much (shall we say Jeffersonian?) cosmopolitanism in the composition of our Americanism to narrow it again.

Will not the reader now agree with us, that we had to use the title "*American Politics*," and that we could not, as a friend suggested, employ that of "*Political Institutions of the United States*"? The name American is our *toga virilis*, and if you please, you may add: the insignia of our national pride. It is as often a thing of passion as of reason, and our people so revere it, that it looks natural to us, that other nationalities should want to be rebaptized in this *New-world* stream of ours.

The word "*Politics*" is better than "*Political Institutions*" would be, because our public life moves largely outside of our Constitutions. The latter embody, as we shall have to show, rather the nominal than the real political relations. The authorities they provide, give neither the form, nor the substance, not even the spirit of the public will that governs us, nor do they determine the policy of the land. Our government is partisan throughout, and our parties manufacture our politics. That fact had to be indicated in the title, and we know of no word, that would have expressed this as well as the one we have chosen. Our task was, as we well knew, chiefly, to bring out the fact, that our idealities are not our realities, and that the true diagnosis, as well as prognosis, of our political condition must be taken from our partisanship, and not our written Constitutions; in other words, that an unripe inchoate public opinion rules us, and not a matured public will.

We are not the only people that, thinking to improve British politics by writing them down in Constitutions, have had to be told, that they rather spoiled than mended them. At the opening of Parliament in Victoria, a colony in Australia, July 9, 1878, the Governor said in his speech: "The attempt to embody the unwritten Constitution of England within the rigid limits of a statute has been found, not to be a success,—the written Constitution being wanting in that elasticity which is



attributed to its prototype." This elasticity (whether rightfully or not? we do not now inquire) the American people have taken to themselves through their political parties; and though our public men are still sworn upon our Constitutions, there is, with them all, the mental reservation of fealty to party. This happened with us, because we attempted even more than the settlers in Victoria, who only tried to fix flowing developments into positive institutions; that is to say: we incased civil government into a *federal* statute, and intrusted its administration to common law jurists. Germany had always failed in such efforts, and we have but followed in her wake. Those, that shall take the trouble to examine the latest Constitution of Germany, will find however, that in it there is provision, through the Bundesrath, to have elasticity and yet positive law. We hope this introductory chapter has now satisfied the reader of the propriety of our title-page.

# REVIEW OF AMERICAN POLITICS.

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## CHAPTER I.

### THE COUNTRY.

“The main fact for a people is their country.”—*Puffendorf*.

THE territory which a population occupies, its soil, climate, and configuration, as well as bearing to other lands, constitute the elementary points of its political conduct and the formation of its public will; because therein lie both the conscious as well as the unconscious motives of its actions. The political work of the great jurist, whom we quote at the head of this chapter (*De Statu Reipublicae Germanicae*, 1667), has such imperishable interest because he wrote it with this key in his mind. The learned blacksmith—Elihu Burritt—struck upon the same idea when he told America that it had two constitutions; a physical one as a land, and a political one on parchment. And the French American, Major Davezac—Jackson’s aide-de-camp at the battle of New Orleans and afterwards Lieutenant-Governor of New York—expressed the same thought when, in advocating the annexation of Texas, he said, in 1844, in his French accent: “The geography of the country was made before the constitution of the country.”

Populations of countries think themselves their rulers, but as they existed before them, and outlive them, and have their inherent natural laws always in force, human government affects the countries much less than *they* do their populations. Folks may think themselves to be the principal *object* of the land they live in, but they are, in fact, its subjects. L. von Stein, Professor at Vienna University, says in a late

work: "The whole physical and economic life of man is a constant battle with elementary forces. True, they obey the intelligent and the active, but they become an overpowering danger when they break through man's economic restraints, partly because in strength and might they are too vast to permit individuals to subject them to their use; but also because the best prescience and care cannot entirely subdue them. They act often destructive on individual life, and the damages they inflict are largely the normal facts in human economy. Hence it is necessary that the powers of economical organizations should be put in counterpoise to natural forces."

Malarious localities require more sanitary organs than those more salubrious; countries watered by streams like the Mississippi necessitate different regulations of water-courses than those with mountain creeks; regions with almost unlimited water power are much less dependent on manual labor than those whose wealth is chiefly created by human industry, aided by coal and machinery. And a continent like America needs more construction of means for interior and exterior intercommunication than insular lands and countries largely indented by oceans, like Europe. The study of America's physical geography is an American's best culture. Manifold are the natural causes that act on American society and produce its social and political conditions. The southern latitudes extend to at least semitropic climates, and in the north they run close to the Arctic regions. Nearly the whole area has abnormally cold winters and hot summers, and many portions are exposed to daily, yea hourly, extremes of weather. These climatic excesses are found to have their counterpart in extravagant social habits and political eccentricities; and it seems to be sound doctrine to say, that if such a country is to be under *one* government and to have a free society, its people must be pervaded by an intelligently wise and virtuous collective public will, that feels it to be its duty to do all that is necessary for the common good of all sections of the Union, and to do nothing against any section which it would not think rightful to do against every other. And this collective will must rest on a public mind that recognizes these principles as public law in every part of the land, down to the smallest municipality. In the words of a modern political scientist, "The natural extremes and diversities, as well as the conflicting interests arising therefrom, must find their perpetual harmonization through a kindly public spirit, that loves not only the country, but also its society, and both, as an integral whole as well as their several parts."

And in this connection it is, we think, proper to bring in the fact that, so far as the white population is concerned, it has been and is its severest task to unlearn a species of patriotism which is *national*, and honourably so, in Europe, but which, if applied to America, is but sectionalism. To adopt and cultivate here a wider, broader, and higher patriotism, which is the forerunner of the coming cosmopolitanism, or, if you like, the *alter ego* of what is on the other side of the Atlantic called Europeanism, is the true essence of Americanism. How completely this has been ignored, indeed never known, we may see in our naturalization laws. Any applicant for citizenship has to renounce all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty whatever, and particularly the prince, &c., whereof such alien may at the time have been a citizen or subject. After two years' probation he has to add to this renunciation and swear: that he will support the constitution of the United States. Where is there in these procedures the cognizance of that complex but still high patriotism—because it requires intelligent and virtuous discrimination,—which magnifies and intensifies the rights and interests of all as it makes them a national duty and obligation? An English-bred lawyer may well frame and have enacted such legal rules; but American jurists should have risen to higher conceptions, and saved the country and the new citizen the smile of derision that always comes to the judge that administers the oath, and to him who takes it, at the shallowness of the procedure. Its great fault is, that it puts on a parallel the allegiance to a prince with the faith and integrity due to a federal commonwealth. The federal spirit, not the formal oath, makes us Americans.

The constant culture of that higher Americanism which means a steady approach to the highest inter-stateism, is more essential to our Union than appears on first—mere cursory—examination, because without it the formation of so large and diversified an area into one country and under one government has no ethical reason. The rightful motive of inter-state unions is the imparting of a higher civic virtue, just as the true inducement for social interhabitation is the genesis of better morals. Individuals submit to society in order to improve themselves and their existence by social co-operation; and municipalities—or, as we say, states—create a supreme authority over themselves because they feel the necessity of a superior public will as compared with their own lower and narrower sphere of thought. This ideal was poetically expressed in the oft-quoted couplet—

“No pent-up Utica contracts our powers,  
The boundless universe is ours.”

All progress in political government consists of the laying aside of local narrowness and the putting on of world-wideness, just as all progress in social rules proceeds through the putting off of the old Adam and the substitution of the social man. Hobbes expressed the latter conception when he wrote

“*Exeundum esse de Statu naturali* ; ”

and Burns pronounced the former view when he bid us to pray

“That man to man the world o’er  
Shall brothers be for a’ that.”

A large country and a great nation are proper political desires only when the result is a higher ethical development. The national grandeur must have for its substratum sub-national improvement; the sections must not have less but more means for self-enhancement; then seeming subjection will in reality be an enfranchisement, and the apprehended dangers of centralization will be set at rest through the all-distributed and well-balanced augmentations of local power.

Who can look at the map of the United States and fail to read out of it, as out of a book, that, if it had speech, it would say: “All my parts are necessary to my entirety, and it again is essential to the several parts. Help yourselves, is my first word to my people; help each other, my second. The Indian never comprehended that; but you, my children of European origin, ought to see at a glance, that you have here a free field for that nationalization which your great minds have desired for Europe, but could not secure there in consequence of local historic prejudices. Establish here, what Roman civilization lacked to make it a full Europeanism. Erect here in peace what Theodoric, Attila, Charlemagne, Henry IV., and last, Napoleon, tried to secure by war, and which Dante has presented as a poet’s dream; but do it in union, and perpetuate it as an ethical nationalization?”

We may be told that these words are our ideality and not the country’s reality. And all we can say in reply is, that if there is really not a necessity for political unity, as between the diversities that are so palpable in the country’s natural configuration, that then it was wrong to constitute it as our fundamental law and to put us all into one political organization. Then New England with New York should have formed one state, with Canada for its background; Eastern Pennsylvania, New Jersey, Delaware, Maryland, and Eastern Virginia a second, with the



Alleghanies as boundary ; Western Pennsylvania, Western Virginia, Ohio, Kentucky, Indiana, Illinois, and Michigan a third ; North and South Carolina, Georgia, and Florida a fourth ; Alabama, Louisiana, Mississippi, and Tennessee a fifth ; and we should never have crossed the Mississippi nor have gone to the Pacific. We should first have diversified, and founded unions afterwards, as time created public policies. We ought not to have formed states by parallel lines, but by mountain ranges, by rivers, and let social causes ripen into political formations. The name America should not have been the mere expression of an ideal totality ; our entirety ought to have continued to grow into a greater and greater Union by social causes ripening into political conjunctions.

American society was indeed formed in localities, so to speak, piecemeal ; but after—organisms, usages, and habits of life which they brought with them, supervened the effects natural causes would have had on their social and political conduct to a large degree. It was so in the colonial state, and it continued after the successful assertion of American independence. Roads, schools, and institutions of all kinds, as well as most of their socialities, were as much imposed on western society after 1776 as they were on eastern society before. The town sites were generally military stations, and the pioneers were soldiers of a national cause that migrated with them, though few of them were regularly enrolled in the army, nor even in the militia.

Their self-sufficiency was not mere self-reliance ; it had its source in a consciousness of being members of an undefined but still ever actively advancing national movement, which was only intensified by the ease with which wealth was acquired in these primitive localities. Cities grew up as if by magic ; in fact everything looked wonderful, except the pioneers to themselves. They drank the nectar of self-admiration, and believed all that grew up in and around them as their work, and as things for which they were indebted to nobody but themselves. That this self-sufficiency had its sustaining effect is undeniable, but that it produced also characteristics that made them in their pursuits less industrious, less thrifty, and less vigilant as to the political institutions that were forming so rapidly and so slovenly, in these new societies, was not perceived, and, if mentioned by others, regarded as impertinent. Well ! it is out now, and we will not take it back.

We return now to our reading of North America, and proceed with our diagnosis.

This country has not, like Europe, a southern brother (Africa)

to serve it as a reservoir of heat for winter use; for South America lies almost entirely east of the 77th degree of longitude, the degree westward of which lies the main body of the United States. The next fact bearing on the thermal relations of this country is, that the coast mountains, near the Pacific and the Cascade range, intercept from the middle and lower Mississippi valley the warm moisture of the Pacific Ocean. It may therefore (if the phrase be allowable) be said, that the United States make their own weather, and that it is extra warm in summer and extra cold in winter, with backward springs and protracted fine autumns. The whole land is, from these causes, kept overly busy in helping itself to sunlight and warmth, and has of course localities of strong electric and magnetic outbursts when the equations of weather are going on. The country is, so to speak, meteorologically always *in extremis*, and people that love the *dolce far niente* would seem not to be proper folks for the United States. Both animal and vegetable life must be hardy, or they will find here only "hospitable graves." As the Indian, however, ever neglectful of the laws of life, has survived, though he did it barely, we may prognosticate that populations that will be careful in their living may multiply and replenish in this American part of earth to a high degree.

The fact just stated—that of the relative position of South to North America—has most important bearings on our international commerce. Taking Cape St. Roque, on the easternmost South American coast, as the point of calculation, it will be seen that it is but twenty-eight degrees from Africa, and equal to fifty degrees' distance from the Straits of Gibraltar, while it is sixty to New York and even more to New Orleans. A steamer can leave Southampton and be as quick, if not quicker, at the South American point, which we have named, than a steamer going from Philadelphia or Baltimore. We have accordingly, in trade to Brazil, Buenos Ayres,<sup>1</sup> or more southern countries, not only no advantage, but are under disadvantages. As long as trade had to go round Cape Horn this applied also to all West American commercial intercourse, and

<sup>1</sup> Of the foreign trade of the Argentine Republic in 1876, Europe had 73.07 per cent.; America, 21.14 per cent.; Asia, 0.15 per cent.; France, 20 per cent.; United States, 4 per cent.

Imports and Exports from and to—

Europe had . . . . .	59,512,000 Pesos fuertes.
United States had . . . . .	4,274,000 "
England alone had . . . . .	15,884,000 "
France had . . . . .	16,725,000 "

The shipping doing business with Uruguay was, in 1876, of European vessels number, 1047, tonnage, 787,848; United States, number, 44, tonnage, 22,874.

this made California much less an American state for all immigration than it really was territorially. That our shipping from New Orleans to Guiana, Venezuela, Granada, has to go ten and more degrees *east* to reach their destination, and that for a large part of the northern coast of South America Europe is as near as most of our seaports, is not generally noticed in this land of westward tendencies and outlooks; and most persons conclude from the name *South America* that that continent must be a specially favorable trading point for all *North America*. Were persons to consult their maps they would find that this is true only of the coasts of Mexico, beginning at Cape Catoche, and around the gulf of that name, and then merely of New Orleans and the Mississippi valley.

Examining the map will also explain to us why no West India policy could ever have the persistence in it which is indispensable to success. The twenty degrees which they stand out eastward from the 77th degree of longitude makes them less *our* neighbours than we are apt to think; and there is therefore less natural commercial intercourse with *us* and more with Europe than would be the case if they laid directly south of our southern coasts. This point may be brought to our minds more fully if we will think on a similar relation of the island of Sicily to Italy, Spain, and Northern Africa. That island has never been a steadfast adherent of any of the adjacent mainlands, nor could it ever be a self-governing island in itself, because it was not a focus of trade and power to any of them. It was long competed for between Greece and Carthage; then between Carthage and Rome; afterwards between the Saracens, the Normans, Spaniards, and Italians; and latterly again between France, England, and Italy. It is now the *enfant terrible* of the kingdom of Italy; but it would readily change this relation to Northern Africa if there were a New Carthage or other strong power there. As it lies it is, in its proclivities, semi-French and semi-Italian, just as the West Indies are semi-American and semi-European. If ever there shall be a right strong power on the northern coast of South America it will be a further competitor for securing the islands or, at least, part of them. Mexico might also loom up again as a rival. But were Cuba ever to form a confederacy with Jamaica and Hayti and Porto Rico, and Southern Europe were to resume its ancient preponderance in the world's commerce, things and powers would assume shapes which our prognosis can but indicate, not delineate.

And if we now turn to our northern relations and begin with the outlets of the St. Lawrence, we see Nova Scotia with its fine

harbor, Halifax, to be ten degrees nearer Great Britain than our commercial emporium, New York. This is equal to two days' steamer journey, and involves the carriage of one-fifth greater supply of coal for each journey. And it explains to us why Canada was ever less restless under British rule than the Colonies, that are now a part of the United States, were. It lets us see, too, why there have always been more voices for the liberal treatment of New Brunswick and Canada generally in British councils, than there were for our states, especially the southern states.

And casting now a glance at the Pacific coasts, where the "*present*" affords so few indications for the "*future*," we see that there also the Canadian Dominion is in possession of the advance posts to Asia, especially Japan and China, unless Alaska (alas! once more) can be used as a skirmishing line and *corps d'attaque*. The gap left in our trade with Asia by administrative weakness or Southern bad faith—we hardly know which—in the *Oregon imbroglio* between 1845 and 1848, will yet loom up as even a sadder fatality in our politics, than those of us who know its bad effects in the train of events that brought the Mexican War, the acquisition of new territory, the Wilmot proviso, and in 1861 the Civil War, can now realize. We had better have spent five hundred millions for Oregon to the 54th degree than one hundred in a war with Mexico. The territories we obtained through that war were fruits that could ripen for nobody but ourselves. Those lost in the North are now, if not beyond recovery, at least very difficult to get back.

After thus inviting the attention of the reader to the external (our commerce restricting) causes in our foreign, and yet American relations, we must present also the internal ones. They had their origin in local disquietudes, that came to those sections when the country's frontiers were extended, as instinctive apprehensions that with every annexation they became less and less the free factors of what they regarded as their own—to them—most beneficial and necessary public policy. New England clung to the protective tariff policy as the best course for ever attaining its own self-sufficiency and independence. The South had, on the other hand, talked itself into its pro-slavery infatuation. But Virginia, the two Carolinas, and Georgia began to become semi-conscious that opening outlets to its labouring forces, while immigration slackened, was social suicide, however many new political births it might produce. And these states became morose and bitter, for they knew not whom to blame for their dissatisfactions, and just as little



where to look for a remedy. They fell gradually into the idea that they were sufficient unto themselves and did not need the Union. But that was too late, after the purchase of Louisiana, the acquisition of Texas, Arizona, New Mexico, and California had brought new ties, commercially and socially. These were now the main factors of politics in the Union, and they could not make the interests of the southern Atlantic states, nor those of New England, either their study or their public policy. Had not these southern Atlantic states themselves complicated the issue by inaugurating south-western extension? Had they not themselves created forces in Missouri, Kentucky, Tennessee, and Arkansas that could not be reliable allies in a public policy that would have secured to the southern Atlantic states the liberty to work out their prosperity by their own special interests?

In Maryland, Delaware, and in New Jersey with New York the apprehensions from indefinite western extensions were most complex. They were in possession of much capital, the product of their industry and economy. They were on the one side pleased with the profits which the extensions of interior western trade brought, but they began to have misgivings as cities grew up in the west who exhibited competitive as well as antagonistic tendencies. And they, more even than the more northern states, made western interests the criterion of the country's main policy. That this meant a partition of western business with Canadian as well as Mississippi valley transportation and trading facilities, was too patent not to be seen, and the thought must necessarily next arise that the position of the governing elements would in time be reversed, and that this meant danger to their own freedom of self-development. The eastern cities, that were self-sustaining, while their merchant princes were the cultivators of foreign trade and world-wide commercial enterprises, grew more and more into inland dependency as foreign commerce dwindled, compared to that derived from interior business. Their several canal, turnpike, and railroad policies were then inaugurated as anchors to the windward; but while they brought stage-line lords, canal oligarchs, and railroad kings upon themselves, they did not, indeed could not, relieve the commercial cities of the domination which a massive interior, that has the political power of a country by its ponderosity and numerical force, always exercises over them.

The general opinion is that unlimited extensions of the area of the United States had always the entire public mind in their favor, but this is only partially true. There was always a



predisposition for it, just as the British mind has it to-day in Africa and India ; but there was also an instinctive though covert repugnance. That the first got the upper hand, and the second was either cowed or overwhelmed, was due to the peculiar circumstances under which the several questions arose. The purchase of Louisiana came like a golden opportunity, seized in wisdom and virtue by the then chief magistrate, and it carried the general public with it. But Aaron Burr's movements, though promising an even greater prize, looked like a dishonest snatching of others' territory, and the beginning of a subjection of the constituted authorities of the land to purposes of personal ambition. And the country recoiled as promptly as it had advanced before. Florida came again in an honorable way and was accepted, while Texas was presented in a more or less questionable shape in 1844, so that it aroused the old (nearly dormant) antagonism to annexation. The defeat of Van Buren, within the democratic party at that time, the Mexican War, and the abandonment of the more valuable part of Oregon, added new elements to the opposition, and with them came the Wilmot proviso, which was but the inclined plane to which the country was being hurried, because the extension policy had become synonymous to being a pro-slavery policy. Anti-slavery agitation was then the only way by which the opposition (to further annexations) could get some foothold so as to retrieve its fatal blunder and lukewarmness in the Oregon question. It had, as to that question, been the tail of a very shallow-pated sectionalism, that looked upon every northern annexation as an act inimical to southern interests.

After the Mexican War and the acquisition of California the popular mind became self-complacent. It did not miss the piece of front on the Pacific which England or, rather, the *Dominion* now holds ; and it seemed to say to itself : We have enough land now, let us improve it and bind it together by railroads ! Thus the United States grew to be, in their own thoughts at least, a world to itself ; and to all appearances it had achieved its purposes, for the country looked on all this, as if thus it had to be and could not be otherwise. We have often, with a view to test this, asked persons whether any section could in their opinion be spared, or whether they would add to any section ; and invariably we received a negative reply. Only when we would mention Alaska, then there was a frequent response that this land of rain might drop out of the Union and not be missed. We found, however, also, that many had changed their mind as to Oregon (to 54°), and we presume that if ever a fair opportunity occurs for

regaining this territory and the islands in front of it the people will not again forgive the statesman that would lose it to the Union. Otherwise the public mind is content with the country as it is, with its double ocean front and double mountain backbone.

In truth and fact there is, as a sectional antinational distinction, no north, no south, no east, no west in the United States, and we may add there is neither a middle nor other extreme section. Pick out, if you please, kind reader, any such section, and how quick you will see, that you cannot put together any three states that have not outside affiliations equally as strong as those to the inside. Take Massachusetts, what two other states will you attach to it that will not rather fly from her than to her? Or will you take Virginia, the mother of states? Are any of her children homesick? Pennsylvania and New Jersey should perhaps have been married long ago, if only as a counterpoise to New York; but what other state would you add? Would you restore Delaware to Pennsylvania? Surely it were wiser to annex it to Maryland. Go where you will in the United States, and while you may find discordances within states as now formed, you cannot point to a single conjunction of states that would form a permanently cohesive entirety as against the rest of the Union. Hence we regard sectional mastery as an impossibility, whether in the sense of a solid south or a solid north or west. A single look at the map contradicts all such partisan fictions. We say, therefore, that while the country may seem to have come together by chance, the conjunction was in our opinion formed from the instinctive or, if you please, inherent necessity to have one supreme political power over all, so as to avoid a disjointedness that would have been eternal distress.

We have then found, if not a positive, at least a negative reason why the area of the present United States is our country, and in the best sense of the word. We have heard a side-denial of this, on the ground that the Union has no spot on which can be erected the permanent capital of the country. We cannot accept the reason as in itself sound, because we know that permanent seats of government are not national necessities. My native land has had Aix-la-Chapelle, Regensburg, Frankfurt, Speyer, and Wetzlar, not to speak of others that were such more temporarily. Switzerland had for hundreds of years alternating capitals. And we would not regard the removal of our federal government from Washington as in itself a fatal act, unless it were caused, as that in ancient Rome was to Constantinople, because the empire had lost its cohesiveness.

The common idea that the capital of a nation should, as near as may be, occupy the territorial centre, rests upon false premises, and we may be glad that the American public mind never could be talked into it, because we feel certain that all the places that have been suggested are much less fit for being our political centre than Washington. We refer here more particularly to St. Louis and Cincinnati.

General Washington's reasons for locating the permanent seat of the Government of the United States where it is now, were: that the site was at the head of navigation on the Potomac, therefore accessible to the largest sea vessels then known; and that the river flowed into Chesapeake Bay, the largest estuary in the country, about two hundred miles long, from seven to twenty broad, and generally nine fathoms deep; the entire surface drained by the river's flowing into the bay being estimated at 70,000 square miles. Washington's keen eye saw that with a moderate expenditure canals and turnpikes could be constructed that would penetrate and connect the country westward, northward, and southward, and that the place would therefore combine commercial usefulness with great political and strategic advantages. These reasons are good to-day, though railroads have since changed the aspect somewhat. Let the reader take his map before him and scan the bearing of the Alleghanies, the Shenandoah mountains, the Blue Ridge and the western outspurs, the Cumberland, Smoky, Bald, and Iron mountains, and then hold the map so that it will present a stretch from Fort Duncan on the Rio Grande to Bangor Maine, and the city of Washington will appear as the breastplate of the Union, the mountains as its spinal cord, and New York and New England as its head. And by a little stretch of fancy he will detect in Florida and Michigan the arms of the Union, and other less mentionable parts of the human figure in all their broadness, lying amidst valleys and plateaus, watered by rivers like the Rio Grande, the Mississippi, the Ohio, Missouri, and others too numerous to mention. Those who may want to speculate further on the appearance of the human shape and features on the American continent will find that the course of the Mississippi has left upon its western bank the figure of a stumpy man. The top of the head is in the Minnesota front, the head itself, including nose and chin, in that of Iowa, the belly comes out by Missouri and part Arkansas, and the legs and feet with heel and toes in Arkansas and Louisiana. The man is looking eastward as if waiting for Brother Jonathan and smiling at his advance. The forehead is, we confess, rather too retreating to indicate much intellect. And with this bird's-eye

view of the general outline, Washington City will be found to be the proper central seat of the North American Union, as it was and as it is.

No other locality could answer as well for a capital as Washington. All places on the lakes would be too open to attack from Canada, and our land defence and marine operations would necessarily be inadequate. The sites on the Ohio, Mississippi, and Missouri rivers would be too much inland. The cities on the Atlantic, on the Gulf, or the Pacific would, though excellent for commerce, be too much exposed to foreign inroads, besides (except Baltimore) not being central in any sense. Philadelphia was picked out by Franklin as the capital of his Union plan in 1754, but the experiences of the revolutionary war satisfied him and others that it would not answer.

The only point that is still an open question is the probability that eventually the relations of the United States to Asia will assume such a magnitude as to require a relocation of our capital with a view to the then existing political geographical conditions. We have read the reports of the Canadian engineers for tracing the line and fixing the Pacific terminus of its great railroad, and were struck by their idea that the head of North America is near Vancouver Island, and its centre the valleys of Frazier, Saskatchewan and Assiniboin rivers, the Lakes and the St. Lawrence. A friend, to whom we showed this, remarked: "This would leave both extremities of the country, the head and the feet, in the cold, and the middle exposed to draughts; while, with New England as the head, and the Rio Grande as the seat, the country would have its head cool and its other extremities warm." And we could not help coinciding with this view, because with the completion of the railroad from the Mississippi to San Diego and San Francisco along the thirty-two degrees parallel, it completes the configuration that gives to all parts, even to the lands around the estuary of the Straits of St. Juan de Fuca, the back country and the inland poise which they need. Only in case New York and New England were driven by foolish western and southern prejudices into close alliances with the Dominion, would this view be changed. We hope that such a contingency is out of the question, and will not speculate further upon it.

We are aware that public opinion in America is averse to have the capital of the Union also the centre of wealth and fashion, but we know also that this idea is but a misguided sentimentality. Commerce is not a corrupter, but a purifier and elevator of political atmospheres. The meanest politicians have ever been men that knew nothing of the civilization that



has commerce as its handmaid. The best have, on the other hand, been those that had open heads and hearts to its many wants. Good sense has, let us be thankful, stolen a march on the nonsense (never shared by Washington, or Franklin, or Hamilton) that wanted Washington City to stagnate in rustic seclusion. It is growing into a metropolis in spite of the many stupidities and villanies which existed in consequence of defective municipal organizations. A similar correcting process has also been going on as to the capitals of the states, and soon they will all either have created commercial enlightenments within and around them, or they will be removed to places in which the business of the country has made its homes. Who does not see that Harrisburg, Annapolis, Raleigh, Columbia, Milledgeville, and Frankfort were mislocations for state capitals? They are being changed, or have been already, because it is now seen that corruption is nowhere so gigantic as where it can fleece commerce at a safe distance. Trade is powerless against the machinations of uncommercial, illiterate, low and narrow-minded upstarts, who rob and plunder states and cities, because they use their vulgarities as covers for their dishonesty. Washington has never yet been all it might have been to the Union; and thus it has come that canal, road, and railroad policies, that should have been national works, have been city undertakings. The hearts of commerce have thereby become cramped for means and enfeebled by abuses of their public credit. Had Washington City been correctly in the public mind, it would have been the pivot and radiating point of all such enterprises. Then America would have had a capital commensurate to its greatness.

Evidently, then, the country is enforcing *its* constitution and slowly fixing up *its own* map! It will, so far as we can see, change very little as an entirety, but it will in time be much altered internally. The map made by political theorists, with its straight lines, its Mason and Dixon line, or thirty-fifth parallel, or its thirty-six-forty range, will be broken into by policies which the country's nature, its lakes, rivers, mountains, sea inlets, valleys, productions and trade, will dictate. The foundation and development of society will absorb far more the public mind than the creation of political states and peoples. Cities free from rustic oppressions and brakes, put on by legislatures that are jealous and envious of the good and well-to-do men of our cities, but servile accessories of those who manipulate parties for personal ends, will yet arise in America and act upon it as the Hanseatic cities of continental Europe did in the Middle Ages. It may have been, yea, we may say it was,



impolitic and wrong in Europe to allow cities to grow up that tyrannized over adjacent territories, but it is worse still to allow country neighbourhoods or inland populations to wield absolute power over cities. The first was a spoliation of agriculture for trade and commerce as well as luxurious rulers; the second is in many parts of the United States a quartering of country politicians upon the business of cities. We would have neither; but both country and cities free, and yet co-operative for the common good.

In this view of the case it becomes an exceedingly interesting question, whether the federative organism of the United States is favorable to or obstructive of free commerce? The history of the writer's native land teaches him, that the independence of cities from the subjection of the sovereign princes, that held the territories within which the cities were situated, was the main lever that lifted mediæval Europe out of its feudal wrongs. It instructs him however, also, that subsequently these cities, having no government over them than the (mostly distant) emperor and the procrastinating federal diet, fell under the rule of local tyrannies, which were either the city nobilities or the guilds of mechanics and traders; and that as such they became obstacles to the general development, so that their entire autonomy had to be suppressed.

With this in our minds we inquire naturally; What position do cities occupy in the United States? And to ask the question brings out at once the fact that the question has really never occupied the minds of the people of the United States, and that the cities are subjects of state sovereignty or, in plainer language, of state absolutism. This cannot be their right relation in the long run, because large cities are more national or, if you please, cosmopolitan than local in their nature. Congress should therefore have a supervisory jurisdiction over them, or what would answer as well, a veto upon state legislation when imposed on cities of a certain class. That done and we would not hesitate to hold that federal organisms are in America as elsewhere the most favorable to the liberties of municipalities.

In this view of the case the thought naturally arises, how queerly the cities are placed upon the map of the country! Not a single city that is not hampered in her natural development by some sovereign jurisdiction other than that to which she is herself subject; and what is worse, this very sovereignty that rules over her has often inland or country interests that are inimical to her, and are in a majority in the respective legislature. The fact that large cities are in their very nature national, indeed cosmopolitan, and that their con-

cerns are never of mere local interest to the nation, should long ago have induced inquiries into the proper relations which they ought to have to and in our federal organism. But we look in vain for such provisions in the Declaration of Independence, the Articles of Confederation, the Ordinance of 1787, or the United States Constitution. In fact, so far as we know, there is not a single state constitution, except Ohio, that speaks of them at all. The neglect dates, indeed, back to our colonial existence, for there also cities were the mere appendages of the colonies, just as they are now of our states. Can this thing go on for ever? Or will some American statesman take hold of this subject and free our cities from rules of action that are borrowed from feudal law? We can here only say generally, that the sooner the national bearing of our larger cities is recognized in some national act the better will be the general development of the country. We do not advocate the independence of cities of the states in which they lie similar to Novgorod used to be in Russia, or to Hamburg in Germany, or Florence in Italy, but we think that Congress should have some protective and regulative jurisdiction, so as to guard them against their being crippled in their national capacities and general usefulness. Now, as we look upon the map and notice the political subdivisions by states, counties, cities, &c., they appear all to be misplaced towards each other; the cities are nearly all in the wrong states, or the states have the wrong cities.

These our premises point, in our opinion, unerringly to certain marked features in the topography of the country as the initial lines in its national politics. They consist of its large sea frontage with its fine harbors and inlets at Naraganset Bay, at the mouth of the Hudson, at Chesapeake Bay, Port Royal entrance, Pensacola Bay, the Mississippi, San Diego, San Francisco, the mouth of the Columbia River, and the Straits of San Juan de Fuca. All these protest against an illiberal, mere inland policy. The spinal cord of the Union consists of the mountain ranges rising near the Upper Delaware in Pennsylvania, and running south-westward into Georgia and Alabama. The cohesive tendencies lie in the Mississippi valley, for no section of the Union will be willing to be without it. The rivers flowing into and *with* this axis are the ligaments that bind us together. Even the great lakes in the north, centrifugal as their direction is, have not affected the main centripetal tendencies. We have long believed that all our states outside of New England have been too large, and that they were improperly constructed by arbitrary north and south and east and west lines. A rectification will have to come, the sooner the

better, and then we shall have a firmer Union, because a vast amount of tyranny, that has hitherto been perpetrated under cover of state sovereignty and state jealousy, will be done away with. Both rest on artificial territorial lines, so that it needs only the drawing of a map by natural lines to see the absurdity of the pretensions for which the artificial ones furnished the opportunities.

And if we now ask, Have we a country? we may freely answer in the affirmative. Yea, we may be emphatic and say: We have a great country! It is flattering to us and to our statesmen as a whole, but not in political detail. We understand its natural laws far too little for our good, and are not only careless but actually disobedient children. In one sense we are, however, like the country; our little virtues make up a very fair total when summed up together. Our love of country is still an all-embracing operation, but not at all like that of the Greeks, with whom the land and the people melted together into an indigenous character. It is more like that of the Roman who loved Rome for its power; but it is again unlike his, because ours is not at all a city love or a local attachment that expanded into a national devotion. Beneath it, and strangely enough not excluded by it, we have sectional dislikes. Sumner could write to a foreign-born professor, Francis Lieber, "I wonder that your free spirit can endure the bondage to which opinion in the south must subject you." And a representative from South Carolina could strike down Sumner on the floor of the senate for his speech on "the barbarism of slavery." Reflect now that the Professor would have had to lie to have admitted that he was subject to any bondage, just as the assailant of Sumner saw no barbarism in slavery. The letter and the blow only proved that there was within the bosom of both Sumner and Keith an inner hate that vitiated their love of country. Neither had ever digested what a great task it is to love so great a country and people, as that of the United States, in all singleness of heart.

The country itself—mark it!—has always been more liberal to all its inhabitants than they have been to each other. Nowhere is its climate deathly to any of them, and in nine-tenths thereof actually salubrious. Most of the diseases, the yellow fever excepted, are far more caused by false living, than by climatic causes, and it generally requires but a very moderate attention to these to mitigate their ill effects, if not to overcome them entirely. The sparseness of the original Indian population was far more caused by their false ways of living and their wars upon each other than by malaria and other inherent

causes of sickness in the country itself. The most serious evil lies in the extremes of weather, which seem inseparable from continental configurations such as that of America. They exist, however, elsewhere, as the Scotch proverb proves of Scotland. They say of it—

“ One day is wun’ an’ weet,  
The second is thaw and sleet;  
The third of them is a peel a bane,  
And freezes the wee bird’s neb tae stanes.”

The openness of the country north along the lakes; its mountain ranges so far as they shut off the warm winds from Texas, the Carolinas, Georgia, &c., and the moisture of the Pacific, will keep producing climatic conditions to which these stanzas may apply; but they are not often of long duration, and at other seasons are compensated by beautiful weather. We know ourselves of many localities that were unhealthy for every new-comer, but which are now healthy for all who adapt their modes of life to the hygienic rules pointed out by science. And in this connection we may anticipate a point that belongs, perhaps, more properly to the chapters that treat of questions of population, namely, the immense wearing-out of brain and muscle which is going on in America in consequence of the peculiar character of all pursuit of wealth therein. It is a scramble for riches, not competence. Of such folks, as quoted already, Lessing says: “A people so eager for gain care but little whether it is got rightfully or wrongfully, or whether by cunning or by force.” We have no doubt that the chief stimulus to this intense zest for riches arises out of the opportunities for large landed possessions and the easy production they afford to settlers, so that slow, meagre, and laborious as well as skilful working for a moderate but steady increase in wealth, looks like out of place in America. Hot haste to be rich has its effects in peculiar economic moral and political dispositions, which centre in desires to have a big country and to be a big nation. And these things carry with them much individual subjection. They crush out many local prejudices by widening man’s sphere of action, but they put also a heavy foot on numerous personal aspirations and individual free-will. Not only our land is massive, but our people and our society too! And there is in our populations, as in our storms and physical phenomena of all kinds, an impatience, a hurry, and a push that frequently puts its rough heel on folks that have “ventured in a sea of glory far beyond their depth,” being tempted thereunto by the seemingly *inexhaustible resources* that lie around everywhere



and appear to be but waiting to be taken. But are these inexhaustible resources the true cause of their proportional success? Are not the natural faculties and acquired capacities of the respective persons the more immediate criterion? It seems so to us, and we think, therefore, that the immense wearing-out of human brain and nerve and muscle that is ever going on here, has its source in mistaken economics, which induce persons to deem *their* physical strength inexhaustible, because they are surrounded by an apparently boundless nature. It was the Indian's great fault that he never took himself into account in his private and public economy, and that is the reason why he and his ancestors have left nothing behind them, as monuments, except mounds and earthworks where they buried their dead.

Great is the country in territorial area and in its general topographical features; great in its mountain ranges, the valleys between them, and their water-courses; great in its natural fertility and mineral treasures; great in being lake and ocean girt for two-thirds of its outer rim; great also in its floods and droughts; great is the heat of its summers and the cold of its winters; and no land can say to its people with more truth, "I am your great I am!"

And yet this great country is not inhabited by an indigenous population! Even the Indian ever was and is a stepchild, and so are the immigrated English, the Scotch, the Irish, the French, and the Germans, and their descendants—pale-faced as the Indian styles them. And still more must this be said of the unbleached negro. And they are all carrying on life upon morals, habits, and institutions that have their origin and causes in other lands. So that it is as difficult to find our true natural as it is to define our true social and political relations. In the manners and customs that are the models of our modes of life, we are European; whilst in all our wants and necessities we are American; and we cannot, therefore, be fully the one nor the other; and yet we must be the latter thoroughly before we can be the right people of this country. Who of us can say with an undivided heart—

"This is my own, my native land"?

And are those, who do say it, its *best* inhabitants? The poet, we have already quoted from (Lessing), opens to us a wide vista to a future Americanization by the remark, "Foreign manners and usages, in which we find neither general human nature nor our special nature as a people, are soon put down;" and this means, of course, that others will rise in their place.

We know very well that the lips of those who neither under-



stand themselves nor the country, can and do easily repeat to themselves: This is our land, and we are its people; but we know that the more thoughtful an American is, the more does he feel the multiplicity of his natural, social and political developments, and how various the influences are that rule his mind. And it actually seems like the perennial fate of America, that the country and its people shall never be long enough together to get used to each other. Waywardness appears to be the special characteristic of both. But in truth it is not waywardness in either; for the country has a persistency that crushes all that do not recognize and obey it. The people, too, have it in a certain sense, and would act it out on all occasions if they were not baffled by the inner multifariousness that sways their judgments. We, who claim to have read the country's last will and testament, venture to say that there is provision in it for all who do their part towards the maintenance of good American society and honest and efficient government. They render the country and the people the best possible service; for they make true what is so often sung, that America is

"The home of the free and the land of the brave."

To do so they need not only good political, but also strong physical constitutions, because only the hardy and bold can withstand the vicissitudes of American nature.

## CHAPTER II.

## THE AMERICAN PEOPLE.

"A land independent, with a people free,  
That concourse I would like to see,"—*Goethe*.

It is comparatively easy to determine when a land is independent, but more difficult to say when a people are free. We may assume that the first exists when no foreign power rules over it, but freedom within involves far more complicated questions. A people would seem to be unfree when any public authority need but give, as the reason of its conduct, the answer: *Car-tel est notre plaisir*. But in America, it appears to be held, that there may be such arbitrary power and yet freedom: provided it is exercised by the sovereign people. This idea rests on the premise that the people, or society, as political science better calls it, is its own self object and subject, and that, therefore, self-government, by an absolute democracy, is its normal public authority. We admit the premise but deny the argument, and hold that no public power is rightful that claims the right to rule as it *pleases*. It is only legitimate authority when it governs as it *ought*. The Declaration of Independence expresses this same principle when it is not satisfied with saying that the colonies "*are*" free, but adds, "and of right ought to be." And we insist, therefore, that to the abstract right of self-government must come the ethical qualification, to make a free people.

The question for us to settle is therefore first of all: How can a people become ethical? And the answer is, By becoming organic! They are not ethical either individually or collectively by nature, but they may acquire this quality through reflection and culture; not, however, as an inchoate mass, but through public organisms that make the perennial welfare of society their special study and work. These have indeed ever to justify their existence by proving their fitness for their respective public positions; but the abstract necessity for such organs must always be admitted, because it always exists. This

right to form a free American people is put in the Declaration of Independence on the right ground; to wit: that they had outgrown colonial conditions, and that "they of right ought to be free states." They proved their right first by the sword, but still more fully afterwards by organizing a Federal Union and maintaining law and order. They had a right, therefore, to speak of themselves in their Constitution as: *We the people*, because they had ceased to be inorganic masses and had an inner consciousness that they should not endeavor to be a mere *demos* or *populus*, but to become an *ethnos* or *natio*. That they chose federal institutions as the best method, for bringing this about, was indicated by their American surroundings and their general historic political development; they only obeyed their inherent necessities in doing so.

But while they enacted a constitution, that was in general outline federal, they mingled with it provisions derived from the common and also the civil law. They did so from political principles that were more specially applicable to British civic institutions. We can see this in the first seven words of the Constitution of 1787: "We, the people of the United States." We have here a national sovereignty as the constituting authority in the first *three* words, while the subsequent *four* words have a federal ring. But *it* is again taken from them if the latter words were merely titular and not descriptive of a political status. How can a condensed solid people be the base of a union of states? In the previous Articles of Confederation this doubt was avoided; for there the states are named as the factors of the confederation. Must there not be states before there can be "United States"? After the Constitution was made, the ambiguity contained in the first words of the preamble was continued and extended, and is also in Article X. the very one that was intended to preclude the possibility of the federal authorities construing themselves into a civil government. We cannot say, therefore, that the conception of a national American people was then, or ever has been, a clear one; it was, on the contrary, much diffused as well as confused, and there existed a great variety of ideas in regard to it, but in none of them it rose to the cognition now attained by political science as to a union of states and their organic society or people. The same must be said of the word *state*. That which the German political writers express by the term, *Rechtsstaat*, a state in which that is law (right), which should be law (right), was ever wanting. State sovereignty—their idol—means absolute power.

The higher ethical self-understanding of the people was also

hindered by that peculiar mixture of ideas as to the source of the rights and functions of the people in government which prevailed at that period of time. Some had already imbibed the ideas, afterwards uppermost in the French Revolution; and they certainly found a place in the introductory passages of the Declaration of Independence. They were also presented by some political authors in Great Britain like Bentham. Schiller had also given vent to them in the passage—

“When the oppressed can't find their rights,  
When unsupportable they deem their burthens,  
They boldly stretch their hands to heaven  
And thence bring back their rights—eternal,  
Inalienable, and imperishable as the stars themselves.”

The then much-used motto, “*Vox populi, vox Dei*,” gave to the word “people” a divine inspiration, that hid from the advocates of popular sovereignty the absolutism which was imbedded in it.

But there was another impediment to the adoption of the true idea of an ethical popular totality of the people, in the transfer to America of British modes in carrying on politics. In them the people were the perpetual agitating agency for keeping government within safe limits. They were regarded as standing outside of government for this purpose, as indeed they were; and ever ready to carry on, if necessary, an eternal offensive and defensive warfare upon it. The British mode of having an organic society was to have the people divided into two alternating hostile forces, one of which would be in power, the other a national vigilance committee. That such a dual political or partisan antagonism is incompatible with federal institutions was then and is, with us, still persistently denied, or at least ignored.

There was, however, yet another incongruity with a federal people; viz., the one that was then expressed in the much-used phrase, *the Lord's people*. It carried with it the law as revealed in the Bible, and was indeed identical with the kind of government expressed in the Middle Ages by the words *ministerium verbi divini*. It was, of course, not written down in the Constitution, but it governed more minds than that instrument, and in very many oaths, given in support of the latter, the former was the mental reservation.

The highest conception of an American people stood thus deeply in the shadows of the past, and it would never have emerged from them, if it had not been for a stronger power than all of them together; to wit: social necessities. They were so powerful because they had the future with them, and their action

was unceasing, like the force of gravitation. They made the immigrants and their descendants, daily and hourly, as well as minutely, less English, Scotch, Irish, French, German, Jewish; and modified all their political, religious, and social predilections, and are doing it still. That it was *always* the better development, who dare assert that? That it was on the *whole* rightful, who dare deny that? The thread of improvement may be hard to find in the tangled mass; but it nevertheless remains true, that there could never be a homogeneous American people if the various races and nationalities had retained, in their full mutual repulsiveness, their respective reciprocal divergencies. Each being modified made affiliations possible, nay, indispensable. The negro is the only one that had everything to learn, nothing to unlearn; and he is and ever will be for that reason an American in a very different sense from the European, who unlearned as well as learned reluctantly, and thus grew into a closely-knit Americanism; while the African has as little tenacity for the new acquirements as he had for his old habits.

We may be told that the affiliations are not very visible; that the Indian (the indigenous citizen) is still a foreigner in his native land; that he is treated as an enemy under so-called international law; that the church people still regard the Bible higher than the Constitution; that our parties are as ferocious, yea, more so than ever; that massiveness and numbers have more weight in our politics than intelligence, virtue, and wisdom; that popular sovereignty is still the cloak for stealing absolute power for government; that the Irish still hate the English and love Catholicism and go on sprees; that the English and Scotch are British still; and that the Germans are still clanish. And we cannot gainsay that too much of this is true, but must also add that the native American is still asking for a false Americanism and dreaming of a spurious American people. But, notwithstanding all this, we contend that the processes of a general modification are ever going on, and that it is the only way to a rightful nationalization; and the sooner we learn that our society is not, and never was, a *tabula rasa* on which zealots could write their idiosyncrasies, the better for us. No one of them can be the absorbent of all. And all attempts, to force this, are in the way of all true ethical development in America. We cannot all adopt any one peculiarity, be it British, Irish, German, French, or African; but we can adopt parts of each other's peculiarities and intertwine with them the experiences of America, for before, and not behind us lies the American Paradise.

This process of turning European heterogeneousness into American homogeneousness is the turning-point in all develop-



ments that have moulded and are moulding the population of this country from being mere *populus* or *demos* into an *ethnos* or nation.

The sense of the necessity of a total ethical organism to our full development could not arise while it was held, on both sides of the Atlantic, that the imperial power of England could, either socially or politically, supply this want. It required the successful assertion of our independence to quicken the true sense of right here as well as there. It had existed, as an indefinite longing, with a few Americans like Franklin, in 1754 already, and it was occasionally entertained by some English statesmen, but the masses in neither country were then alive to it. Such a thing as a British nation was indeed then hardly born. The Union of England and Scotland, though formed early in the eighteenth century, was not perfected before the battle of Culloden in 1746, and the Irish Union was not consummated before the dawn of this century. In fact, it was our Revolution that taught England better ways in the government of colonies, as well as in their treatment of the home-folks, that now constitute the British realm. England, grasping as ever (a trick we have learned of them), is now warned not to push authority too far, and it is prompting in Canada, South Africa, Australia, and even in India, the formation of peoples and societies, in which absolute power shall not be the basis of government. Our Revolution was, so far as England was concerned, the first successful resistance to extra territorial usurpation of sovereignty over other peoples.

It is in this connection instructive for us to break in upon our argument for a moment, and to turn to the present condition of one of the British colonies—Victoria. There the contest between the political forces is similar to ours. They have, like us, adopted a Constitution, and then attempted to carry on their politics upon British partisan models; and office-seeking, office-holding, and office-expelling is their, as it is our, all-absorbing occupation; and they are, of course, in the same quandary as we, because there, too, partisanism has run away with the people and the government. At the opening of their Parliament (July 9, 1878), the viceregal speech announced this view by saying: "The attempt to embody the unwritten Constitution of England within the rigid limits of the statute has been found not to be a success, the written Constitution being wanting in that elasticity which is attributed to its prototype." This proves, what we ever have contended for; viz.: that a people permanently divided into two pseudo-national parties, that are no part of the written Constitution, can never solve the problem

involved in elevating a population into an ethical organism. Such parties are elements of discord. Concord means death to them. And our party government, and no other element, either inherent in the country or forming a part of our institutions, is to blame for the seemingly insolvable condition of all our public questions. Does not the reader see, that they are retained as means for party squabbles?

Thus the substitution of *party* necessities for *social* necessities changed the entire course of American politics. We shall, however, discuss the effects produced upon the several questions in special chapters, and can here only refer to the general fact. That it is still the all-absorbing standpoint from which every public measure is decided, is proof positive that we are not an organic commonwealth. You might as well claim that an ecclesiastical organization that is permanently divided into sects is *the* universal Church, and can evolve religion. No! Ex-constitutional parties and sects are evidences of deep defects in church and state; and their presence in our federal union indicates that the true relations of the states and the people have not been found nor inscribed on our fundamental law; that, in fact, the real constitution is still to be made, and that the organs that are to enact an intelligent, virtuous, and wise collective public will are still to be instituted. And if we are asked to point out where the misdirection had its beginning, we have to answer as Socrates did the Athenians: "It came because the people essayed to govern themselves without experienced rulers. Government is a science, and a difficult science. States, as well as ships, need experienced pilots." The American people thought they ruled because they voted, but a greater mistake never was committed. It could end only where it began; to wit: in a mechanical counting of tickets.

Had these parties of ours been an openly recognized part of the general organism, as they are in Great Britain, and been, as there, under the guidance of acknowledged leaders; and, while such a dual people could not be the highest order of organic public life, yet the ill effects would have been, as in Great Britain, reduced to a minimum. But our people only repeated in their parties what they had done as to the regular government; they *would* be the rulers themselves. And, as might have been expected, they were soon, like all grasping sovereigns, in the hands of flatterers, who stooped and degraded themselves, so that they might gain popular favor. The outcome was a more and more spoiled people, and a more and more corrupt body of officials. Before the people opened to men a public career they said to them, "First fall down and worship me." On the

other hand, those that gained power in this way recompensed themselves by feathering their own nests and those of their friends; and this is the reason why we have made such slow progress in becoming *one* ethical people, and why we have made such hot haste to get up *two* immoral parties. And though it is the bitter irony of fate, yet it is logical, that these parties of ours have to stand sentinel on each other's rascalities, and to abuse each other and to pretend to be honest. Their watchword is (sic!)—

“Eternal vigilance is the price of liberty.”

Where, oh where? is the public authority in this country that can say, with Duke Eberhardt of Würtemberg: “In the densest forest, and in the darkest night, can I lay myself down to sleep in the lap of every one of my people”? Sleep! Neither the people nor the Government ever enjoys it. And the moral that shines from Shakespeare's couplet,

“Uneasy lies the head that wears a crown,”

could easily be paraphrased to exhibit to mankind the eternally disturbed condition of the American people.

The *realities* of a country and its people are the inherent causes of their life time without end; while the *idealities*, the ethics, and the intelligences that prevail in a country, determine the degree of *advancing* prosperity which the inhabitants of a land shall enjoy. If they are high toned and well tempered, then a population is constantly rising in all that makes a nation truly great; but if they are low toned, fanatical, or uneconomic, they will produce sinking conditions, even with a rich and powerful people. A modern author (Stein) expresses that as follows: “To the natural existence of a state attaches itself the thoroughly independent life of a people. The people are the soul of the state, viz.: the conception it has of itself. It is first a self-producing and then a self-consuming force, but then also a personified state at rest. In the former sense a people appear as population; in the second, as nationality.”

Now this rest or self-poise of the public mind has never yet been attained by our people; because we have, bound up as we are in our parties, made the offices and jobs of government just as much the race-ground for the cupidities of men, as the commercial pursuits generally. Jobbers on 'Change, we are also jobbers in politics, and transitions of men and practices from one to the other are by no means seldom; they are preparatory schools to each other, and personal, not public, advantage is the universal aim.

It may now be interposed that we are exaggerating the evils produced by our exconstitutional and inorganic parties, and that we are overlooking other causes, such as the large and diversified area of the country itself, the still wandering character of our population, the diversities as to race, religion, and social manners. We admit that these have something to do with our defective national developments; but we must insist, nevertheless, that their evils, whatever they may be, have been aggravated by our partisanism, and that with a truly organic public life they would have passed away almost unnoticed, because their effect was always transitory. We have shown in the preceding chapter that the geographical formation has not been in the way of our being organic, and have also explained in this chapter how conducive to the affiliations of our populations it is, that the European specialties should have been rasped off by the socialities of America. Similarly are we correcting each other. The Yankee that has migrated westward has more nationalization in him than he that remained at home, and the same can be said as to the Pennsylvanians, the Marylanders, &c. And the return of Westerners to eastern localities has also been beneficial. Evidently, then, we had to be a moving people to take up the first rudiments of nationalization. We can say, then, in all the seriousness of truth, that our migratory character has not impeded, but rather promoted nationalization. Let us now examine into the other points above presented, and do it at the hand of a few statistics.

The total population of the United States—see Census of 1870—was 38,925,598. It consisted of—

Foreign-born Whites to the number of (a half a million of Canadians included) .	5,493,712
Chinese . . . . .	63,754
Indians . . . . .	383,712
Negroes (chiefly natives) . . . .	4,886,387
Natives of foreign parentage . . . .	10,892,015
Natives two or more generations removed from European descent . . . .	17,206,518

Among the last-named are no doubt a few miscellaneous remnants not large enough for special mention, such as descendants from negroes that no longer show their colored blood, also descendants from West Indian, Central and South American immigrants. There are now in the United States but about 55,000 Central and South Americans, and they are partly negroes.

In arriving at any conclusions as to the question before us, we may as well exclude the Chinese and the Indians, because they have had very little influence on the ethical character of



the nation. Their treatment has, however, tested its calibre—and certainly not favorably;—but not affected its formation. There remain, therefore, to be considered only about five millions of negroes and over sixteen millions of foreigners and natives of foreign parentage. Assuming now that the children of foreigners share their parents' proclivities (which is, however, not always the case), we find that, of the foreign element, a little over one-third, or 1,855,527 out of 5,493,712 foreign born, is Irish; not quite one-third—1,709,531—is German, and the remaining one-third is English, Scotch, Canadian, and a few other small remnants. And it is therefore plain that the foreign element is a divided element, whose parts largely counteract each other. Such a thing as a combined movement for any special foreignism, either for political, religious, or social ends, is in itself an impossibility, except as a transitory phenomenon. And in passing upon this point, we must also bear in mind that it is a political question which we are considering, and that the injurious effect, these populatory elements are said to have had on our politics, is the issue.

Now, as to the negroes, it must again be stated, as in the case of the Chinese, that while they have tried the temper of our ethics—and the result does not flatter us—and are doing so still, they have really had almost nothing to do with their formation. Their ancestors brought no ethics with them from Africa, unless docility be the elementary ingredient. What public spirit they have—certainly not good—they have acquired here, and it was entirely passive up to 1870, except so far as an ardent desire for personal liberty has led to appeals to the inner justice of the American mind. Their enslavement furnished an issue for reflection and action; but the negro race did not, in itself, contribute to make our conduct either more or less wise or foolish.

This leaves, however, the side issue open—whether the American public mind would have solved the negro or respectively the slavery question earlier and correcter if its populatory elements had been freer of Irish and German intermixture. And as these elements were almost entirely excluded from the regular constitutional public organs, their adverse influence must have been exercised in our party politics, and *there* must have occurred the obstruction to the so-called higher Anglo or Scotch or native American ethical inclinations. We know that such a showing cannot be made; that in truth, so far as the Germans, at least, are concerned, the evidence is all the other way.

And right here we must bring up the fact that the negro or slavery question was solved without civil commotion as long as



our political parties did not meddle with the issue. It was partisan interference that brought into it hypocrisy on the one side and stubborn and blind obstinacy on the other. Motives of self-interest, more than philanthropy, may have made New York, Connecticut, New Jersey, and Pennsylvania adopt prospective emancipation and also exportation to other states; but the self-interest was wise and honest, while the partisan spirit that took up the matter afterwards was egotistic and pharisaical. It inflamed the passions and unfitted all concerned for the right solution. The query arises therefore: Which of our populations was most guilty in this partisan *fiasco*? To answer it may not be quite proper for us, an adopted citizen; but we can say in all sincerity, that the so-called foreigners were not worse than the natives, and that the first stone should not be thrown by the latter.

The Irish and the Jews are doubtless, in consequence of the peculiar wrongs they have suffered for ages, more disposed to heated partisanship than the English or Germans, and it may be true that in America the evils of political parties have been intensified by the presence of the first-named; but it would take sharper prying into statistics, than we are able to furnish, to make the difference between an American, or English, or Scotch, or German partisanship visible to the naked eye, after any of them are once engaged in the fray.

The strong inducements to our kind of national partyisms are—deny it as we may—America-bred, and they are fed by our peculiar economic conditions. We have more wants than other peoples, and our impulses, to satisfy them, are more active and less scrupulous. We want to acquire wealth even more anxiously than any European, and we demand to have it with the least cost and labor. And we are more sharp in taking advantage of either an overstocked or deficiently-supplied market than all our kin beyond sea. “We are,” in this respect, “passing by them,” to use Gladstone’s phrase, “in a canter.” These qualities we have carried into party politics, for their doors were opened wide to all, through universal suffrage and universal partisan qualification for office. To become rich through politics is an easier pursuit of happiness in America than anywhere else, and at the same time more remunerative. It takes less talent, less education, less honesty, and less time to succeed, and only a little more of that low cunning, which grows best in the absence of honor and integrity. Never to express a decided opinion, never indeed to form any from objective standpoints; to observe anxiously the weather-vane of public opinion; to pass by friend or foe in the race for success; to use corrupt means, but to use

the hands of others for this purpose; to rise on the shoulders of petty ambitious and venal men by making their little successes your big success; to pretend devotion to principle, but never to have it;—these are the step-ladders by which to climb; they are the passports to party favors in America.

If, then, we look abroad for the main cause of our defective organic development, we shall never find it by singling out this or that special thing; no! universal is the effect, it pervades all our public life, and universal must be the cause. What other characteristic, then, than that of partyism and office and job hunting, is there in America which we all (Indians and Chinese excepted) have? What other is so markedly the product of our own growth? What else penetrates every item of our existence so completely as this?

Five of every hundred of our male adults are criminals! Ten of every hundred are paupers! Fifteen out of every hundred depend for a living on government employ. Forty-five of every hundred are aspirants for success in party politics. Ninety-nine of every hundred are partisans. The lines of distinctions can be run here neither by a native, or by a British, or by an Irish, or a Dutch, or color line; for in this we are nearly all alike. It is with us “national” (using the word in a low sense), like nothing else; and it, and no mere transitory and special thing, must be the natural cause of our defective nationalization. It is both the biggest as well as the costliest thing we have got. It costs more than our army, our navy, more than our whole civil service, yea, more than our public debts. And, forget not, it is all voluntary, and its free-will goes forth, amidst the huzzas and acclamations of the multitudes, as the national public will.

And all its war-cries are also American. It takes from the several sections and gives to one of them some two hundred millions under the phrase, “Protection to American Industry.” Under the pretence of furnishing good government, and security to person and property, it collects by taxation, duties, and excises, \$561,183,042, not including here fees or assessments. It loudly professes to hold sacred, *public* credit, but it does it by making private credit insecure. It is ever voracious in claiming for itself all the good, and beautiful, and true in the land; why not, then, charge upon it all the wrong, the unhandsome, and the false in the country?

The “London Quarterly,” October 1878, page 302, draws this picture of Turkey:—

“Reckless borrowing, wasteful expenditure, bourse swindles, embezzling adventurers; the worst type of European bureau-

cracy engrafted on Asiatic supineness; pseudo-centralization, powerful to exhaust, powerless to sustain or repair; respected national usages trampled on to make way for third-class foreign customs; a sham educational system, a sham parliamentary representation, a sham literature, a sham budget, a sham civilization."

There is the end and the come out of national degradation. We have not reached it yet, but we ask you, dear reader, are we drifting—towards or from—this lamentable condition of a people?

The master passion of a people sways its conduct, and it is the way to an understanding of its politics. If well directed and tempered, it promotes the constant advancement of society in production, in enjoyment, and in good morals and laws. But if it be ungoverned, it soon becomes ungovernable; it then overleaps itself, and lays nest-eggs for future trouble. It is not wrong to want to be rich, but it is wrong to strive for it by wronging others. The one is the legitimate pursuit of self-interest; the other is egotism. Those of our people that have gained lands for a possession and means of livelihood for themselves and posterity, have laid well the foundations of their prosperity, for their wealth is no one's poverty. But can those who used the opportunity furnished by a thoughtless government to enrich themselves, or who buy lands to hold them for re-sale at a profit, say as much? Is not their growth in riches an impediment to that of others? We refer to this here as a marked instance of that lack of foresight in our government, without which social inequalities spring up to the detriment of others in society. We shall discuss these points in other chapters, where it is presented more at length and in greater detail.

The reader will now ask, as we are asking ourselves: Does this country have at this time the concourse spoken of by Goethe in the text at the head of this chapter, viz.: a free people in a free land? The land is independent enough, but whether the people are free in the sense of being right, is, in our opinion, more than doubtful. They are in an organized federal Union, they are great in population and wealth, they have and are executing immense undertakings; but who does not see in our political organism the party disintegration,—in our greatness, our littleness; and in our pride, our grotesqueness; and, behind our political equality, the social inequalities that engender those oppressions that lead to civil commotions? Neither of our parties being more than half of the people, can be for us the organ for evolving ethics. Once in a while, when they are confronted by events, which are too

momentous not to let our parties see their own impotence; then they unite on some public measure and they style it a "compromise." And well they may, for such measures are never a complete solution of the pending question. Still let us be grateful for these momentary returns to the unity of government, for they show that the sense of it is not entirely lost. They act on our politics as flashes of lightning do on landscapes when darkened at night; for they exhibit, short as the time may be, the beauty that is hid, and that is only waiting for the coming day, and to shine in all its original splendor.

It is no more disparaging to the people to speak of them in thiswise than it is to tell a man that he cannot think or will without a head, that he cannot digest without a stomach, and that to walk he needs two feet. The members of which a human being is composed are, while uncombined and unorganized, a mere mass of matter incapable of those actions which we call human; and so also it is with this thing called people, their organization, subdivision of functions and forces; only their discipline makes them a public person. American society could with perfect propriety call itself through the constitutional Convention of 1787: We, the people of the United States; and the Fathers had a right to say in the Declaration of Independence, "We, the representatives of the United States of America, in general Congress assembled, do, in the name and by the authority of the good people of these colonies, publish and declare," &c. &c. And so, too, it was correct in those who framed the Articles of Confederation to speak only of the people of the several states; but it was wrong then—it is wrong now—either to attribute expressly or to have it implied that an unorganized population is a constitution builder, a lawgiver, or a personality.

That the word "people" was used in the latter part of the last century without correct discrimination is not disputed, and that this has led to inexactitudes in political reasoning is equally certain. Washington speaks alternately of "the people of the United States," "the people of these states," "the American people," and "the country" as if they were synonyms. Adams uses the words "the people," "the people of America," and "society" as identical, but always couples with them expressions indicating that they were to be organic. Jefferson's favorite words were, "the country," "the nation;" but he is the first to speak of the result of an election as "the will of the law for all." He also enjoined "an absolute acquiescence in the decisions of the majority," for he calls it "the vital principle of republics." Hamilton steered the ship of state out of the harbor of constitutional government upon the billows of party



storms. We are not sure but what Jefferson was at heart for an unwritten constitution, and as part of it for organic parties, with an efficient press, great men as leaders, and free popular discussion. We must believe so, or hold him unclear in his theory of government. That all the states-rights' men kept speaking of the people in the singular, and not (as consistency with their doctrine required) in the plural, is another instance of their indefinite views on federal law.

Could Jefferson have foreseen what Lincoln, just sixty years afterwards, drew from his doctrine, and how carefully he would have reconsidered it. Lincoln constitutes the will of majorities into the "solvent of all public questions," even as fundamental ones as the regulation of the domestic concerns of the states by the federal government, and says: "If the minority will not acquiesce, the majority must, or the government must cease."<sup>1</sup> Subsequently he says: "The chief magistrate derives all his authority from the people." In his first message he derides the preamble of the constitution made by the states that attempted to secede, because they drop the words, "We, the people," and say instead, "We, the deputies of the sovereign and independent states;" and he asks, "Why this deliberate pressing out of view the rights of men and the authority of the people?" and then adds, speaking of the impending war, "This is essentially a people's contest!"

This ingenuous, but only ingenuous, attempt to cover with the mantle of the people what was really a party and sectional contest for power, represents the thing grown from what Jefferson wrote when he let the party leader in him get the upper hand of the statesman and constitutional jurist. Lincoln had but 1,866,452 popular votes out of 4,680,193. His electoral majority of fifty-seven electoral votes stood opposite to a popular majority against him of 947,289 popular votes! Thus the logic of facts and events marks the illogic of erroneous political opinions.

The utter confusion that prevails on the phrase, *the people*, manifests itself in the uncertainty which hangs around all popular decisions. We are ever quarrelling over them, and nobody knows *when* the people do speak as a people, and for whom their determination is the law. We claim often municipal elections as the fiat for federal politics, and frequently state questions are totally ignored at state elections. And it is not at all seldom that presidential elections turn on local politics. Indeed, it is deemed the highest quality of party managers to know how to spring questions on the people and to bewilder them. The popular mind now needs platforms, as the lame need crutches,

<sup>1</sup> He did not see that in good government both acquiesce therein.



the short-sighted, spectacles, and the deaf and dumb do finger signs. The nation has really no policy, it lives from hand to mouth; party necessities are so overwhelming in the minds of our public authorities that they steer by them almost exclusively, and when they make mistakes they charge them upon the people, whose will they claim to have obeyed, but whom they had only humored to get them to vote their party ticket.

America will yet have to learn that besides thinking ourselves a great people, they must be in fact one. *That* we can only do through public organisms that are recognized in our constitution. Without such organs there is no people, either in the States or the Union. American society and an American people exist only so soon and so long as they are organic.

## CHAPTER III.

*THE SOURCES OF AMERICAN POLITICS.*

"Culture develops from traditional ideas and sayings, that were the slow growth of forgotten centuries."—*Johannes von Müller.*

WHEN we survey the political history of the people of the United States, we find many similitudes *with*, but more variations *from* ancient theories and practices; and yet in the institutions of antiquity and their modifications lie the sources of American politics. Our way to them leads us first back to British politics, until we get to Alfred the Great, and with him rises before us the overshadowing figure of that century—Charlemagne. And there we halt; but by no means because there are not examples for our institutions further back—for instance, the Amphictyonic Council of the twelve free Grecian cities, the prototype of our Senate; or the Demiurgus of the Achaean League, the original of our President—but because we have in the Carovingian period a new start from the then effected confluence of previous periods. And the results of this new departure are embodied in the institutions of England and respectively of America, as they are in those of Germany and France. Their present forms are modern, but their fundamental principles are still much the same as of old. They are the elements of nearly all the main parts of our constitutions.

This view of the sources of American politics will be displeasing to those who have imbibed the idea that the United States have original institutions; and they will interpose and contend that at least the separation of church and state was a new step. We beg leave, however, to reply, that while we may have severed the union of church and state, we have not abolished the duality of the sources of law for regulating human conduct, which was consummated A.D. 800. And that duality is the very thing which Charlemagne, and after him Alfred I., introduced and established, and we have continued it much more than we suppose. When America shall determine that there shall be but one source of law, to wit, the regular political authorities of the country, then will our posterity find

out how innumerable are still the relations which are left to ecclesiastical control. Then it will appear most clear that the two powers, that went by the name *sacerdotium* (our church) and *imperium* (our state), though they are under less close relations, nevertheless exist, and that the state obeys much more the voice of the churches than is generally believed. We shall discuss this matter in a special chapter, but permit ourselves here to refer the reader who wishes to understand this question to an article in the "British Quarterly Review," October 1876, p. 198. We have freed the state from church rule; but have much more freed the church from state rule; and it will cost America a civil revolution to establish the supremacy of civil government over all the relations in society, or at least all public bodies and their relations to the people at large.

We say, then, that the subjection of society to codes and creeds, that were evolved as social and political rules of action in other lands and times, was the thing agreed to by Charlemagne A.D. 800, and followed by Alfred I. afterwards. Alfred learned it from his stepmother, a French princess, and it led to a social and political framework for government, which, though altered, remains with us in its main features. The various religious and political conflicts, including those of the Reformation, and embracing names like Cranmer, Cromwell, and Wesley, were disputes of factions that desired a change in, but not the abrogation of ecclesiastical rule. They desired the substitution of their religious views and authority over the state, but never contemplated the repeal of the duality in the source of law. The Protestantism of the United States is even now rather a negation of the right to rule in the Catholic Church, than of their own. The manifold agitations as to the Sabbath Temperance, "God in the Constitution," the "Bible in the Schools," are but attempts to enforce in our society laws which it did not evolve, and which are not the product of its own collective public will. And it all means that we shall admit that antecedent to our constitutions and to all constitutional rights of person and property, there was a *sacerdotium*, or a *ministerium verbum divini*, that is the source of all law. We have this in the Constitution of Ohio, in the words, "Grateful to Almighty God for our freedom." It means the same as the *Dei gratiâ* of the kings of Europe.

The insular situation of Great Britain, its distance from Rome, and its four times renewed hatreds of foreign subjugations, have kept alive the zest for home independence more securely there, than was possible in France or Germany or Spain; but it allowed also the preservation of many home prejudices. The worst of the latter has been the English habit of

ascribing, directly in the face of truth, all that is good in that country to its own innate superiority, and all that is bad to foreign introduction. *It* has been the bow-string by which the English people have ever been led by the nose.<sup>1</sup> And they have carried it with them wherever they went, particularly to their most favorite field, the North American colonies. That it sticks in native Americanism we need not point out, nor is it necessary to reiterate that it is a sentiment which we respect for its healthy undertone, but despise for its unhealthy excrescences and extravagances. We must state, however, that we know of no people entirely free from them. It is at this time specially reprehensible in every people; because all nations are moving amidst most numerous and most positive proofs that in the mutual international exchange of knowledge and of advances in mechanics and means of intercommunication has lain and lies the main progress of all. A foreigner that moves in British society will find the prejudice still all-pervading, but much subdued. It has been so fed by adventitious circumstances in America, that it obtrudes its brazen front on all occasions, especially through politicians that wish to curry to public favor.

We are aware that it goes against the grain of Anglicans to acknowledge the influence which Rome and France formerly had on England; but it would be just as foolish in us to deny the effect Great Britain has and does exercise on us. Why not confess that centre of power and intelligence varies in time as to localities, and that at one period it was in Athens, then Rome, at another time in Florence, Paris, London, not to forget Berlin and Vienna. The Anglo-Saxon princes, Cadwell, Conrad, Offar, who pilgrimed to Pope Gregory I. and *Roma*, went there to learn what they could not learn at home; and both the predecessors as well as the successors of Alfred, and he himself, were benefited by visiting their princely relations on the continent. There they saw schools and learned societies under men like Alcuin of England (who had to emigrate to be appreciated), Peter of Pisa, and Warnefried the Lombard, which pleased them, and they introduced them in their own countries. Alfred took Erigena from Paris back to England and to Oxford. Our own common school system rests on Carlovingian ideas. Charlemagne was also an expert organizer of political institutions. His local "Diets" are the model bodies of our state legislatures, his *missi dominici* are our various kinds of commissions. The diets were in lieu of the ancient Germanic annual meetings of

<sup>1</sup> With that illusion in their head, Englishmen still use the words of Magna Charta: "Nullemus mutare leges Anglicæ."



the people, called in the books *generalem populi conventum*, and when changed to representative bodies, were first called synods, then councils, and last, parliaments. Charlemagne and Alfred had not forgotten—what we have so sadly lost sight of in our two legislative chambers, the senate and the house—that there must be more than a distinction as to age or the electing constituency to make a safe, conjunctive, two-bodied, legislative power. They knew that it needed one body to represent the wisdom of the state (*wittena-gemote*), and another where all interests had their voice (*folk-gemote*). We have the words “assembled wisdom,” “public interests,” but the embodiment thereof in legislation is no longer among us. Similarly it has gone with the old idea that emperors and kings hold authority by the “*toto coetu populi confirmatæ et sancitæ*.” Our presidents and governors are so, nominally, still; but, in fact, they are but the pseudo-leaders of parties. Charlemagne’s courts are the models of ours, even down to the associate justices, then called *Scabini*. The *judicium parium*, the basis of our juries, existed before Magna Charta; and here also we have deteriorated, for who does not know that our professional jurymen are a farce on anything like judgment by our peers? Whose peers are they? Certainly not often of the parties tried in civil suits. The lord-lieutenants, the chancellors, the councillors, not to forget the constables, are all of Franco-German and Roman origin. So are our counties, as well as our embryo states—our territories—derived from the same source. They called them “marks.” And what we have in the city of Washington and the district of Columbia is nothing but the twisted idea of old Rome as a free metropolis—free from outside power—and, indeed, of the erection of the states of the church as a special government. We have reversed the thing. Instead of a city ruling a whole country, we have cities ruled by a whole country; but now, as then, the country pays the expense.

The phrase, “law of the land,” the old *lex terræ*, which stands so queerly and unexplained in our *federal* constitution, is at least a thousand years old; it was and is the instinctive protest of the respective jurists of the countries of Europe against foreign religions and laws which were imposed either by invaders or their own kings without having been tested on their society, and which therefore unsettled more morality and law than they established. It seems to us plain, that the words got into our federal constitution more from habit than as a juridical expression. It is similar with the word “sovereignty” in our political discussions; it is a Norman interpolation into English law, which was learned by them during their residence

in Normandy. It really means a public power that need give no reason for its government, and is contained in the ancient conqueror's words, *Sic volo, sic jubeo*. It is an idea foreign to the Germanic races, it was never thoroughly English, and even in France it is used more from political tendentiousness than with logical precision. It is the Eris-apple of our politics, and the sooner we abandon it the better for us all.

The use of the word sovereignty in our political phraseology brings forcibly to our minds that inconsistency in our public conduct which is so difficult to explain—to wit, the zest with which we assert on one occasion pleonasm of political power for our governments, and the scantiness of authority we would measure out to them at other times. While under the latter influence, we claim inalienable rights for individuals; while under the former, we attribute sovereign powers to states. It seems to us that recalling to ourselves the original character of the European tribes, from which we sprung, lets us find the solution of this paradox. They were warriors and partisans, and as tenacious and vigilant as to their own rights and interests as they were oblivious of those of their enemies. The Franks, or by whatever other temporary name these Germanic peoples called themselves, went as well armed to their folk-gemotes (meetings) as they did to war. In the first they defended their liberty, in the second they struck down that of others; in both the employment of all the strength they had was their policy. This characteristic they have transmitted from generation to generation, and it beats beneath our waist-coats now as strong as ever. Our presidents, our senators, our clergy, and our politicians all have it; and “We, the people,” deposit it in the ballot-box. All our statesmen, not excepting Jefferson or Calhoun, were (unconsciously) political pleonasts, when in pursuit of an object, and all would stint the government which opposed their measures and hindered their personal success. Its source is that *second nature* of ours—*love of power*—acquired by our ancestors when roving over Europe for its subjugation and for new settlements.

How much we still follow precedents is plainly visible in the amendments effected by Charles Sumner to the United States Constitution, and particularly in clause 4 to section 1 of Article XIV., viz.: No state shall “deny to any person within its jurisdiction the equal protection of the laws;” followed up in section 5 by the provision, “that Congress shall have power to enforce by appropriate legislation the provisions of this article.” The policy of these provisions is the same as that of John Lackland, who, when compelled to sign Magna Charta,—which was,

as it was presented to him, but a perpetual guarantee of the privileges of the upper, so-called *free* classes of society,—required the addition of a proviso, that whatever rights were conceded to them, they should also concede to their tenants and feudatories. The effect was, that from that proviso have sprung all the gradual liberations of British society, because as the upper classes won powers and immunities from the Crown, they achieved at the same time greater liberties for their subjects. Similar was the object of Sumner. He said simply to the southern people: We will reconstruct your states, and you shall have autonomy therein, provided whatever rights you whites enjoy, by law, shall also inure to your former slaves. It remains to be seen whether there is here the same mettle as there has been in England. If so, it is the most far-reaching provision of our constitution.

British law-writers represent to us all the several stages of constitutional developments in England as revivals of ancient Anglo-Saxon liberties and birthrights; but it seems to us that a much truer way to look at them is to regard them as so many recoveries by English society from being the will-less subjects of their several invaders and their sovereign wills; or, if the reader pleases, it was each time a renewed assertion of the necessity inherent in all human socialities to evolve laws and morals by their own self-action, interaction and reaction, and the co-operation of all embraced in the respective body politic. No one would look upon present British politics with more astonishment than would the ancient Britons, Saxons, Danes, or Normans. They would find many liberties they never heard of, and would, like Blackhawk did in Philadelphia in 1832, see much more tyranny in modern civilization than freedom. Our conception of governing by a box full of tickets, they would certainly regard as utter folly and feebleness. They would perhaps recognize themselves in our zeal on the one hand to grant to government all the power we would like to have exercised for our interest, and on the other, to deny any and all authority for doing anything we do not want to have done.

British liberty, as it is generally styled, British self-development, as we would call it, has grown out of abrogations and denials, and not out of assertions of and submissions to this or that sovereignty; though it is also true that many internal tyrannies were abolished by the very invaders whose sovereign wills had afterwards to be restrained. Two moods alternate in the British as in the American mind, in consequence of these historic processes; to wit: they are either apprehensive of some imposition from abroad, or rejoicing that they have overcome it

by assimilating the old with the new. The results achieved under these impressions they call, as well they may, their own work. We have the habits of these moods, but no longer their cause, for we need fear no invasions. During our revolution, and for a generation afterwards, we had the first mood as an anti-British feeling, and afterwards we had the second as a gratification at the institutions we improvised and fondly called American. But, as stated, the habits outlived the cause; and having no external designs to apprehend, we magnified internal ones into political hobbies—accused each other of meditating this or that tyranny, antagonized each other at elections, and after them felicitated ourselves and the country that it had escaped the perils of these creatures of our imagination. Slavery was such a bugbear between 1854-70; the Catholic Church in 1854-56.

But we kept up among us not only many of the ancestral habits of thought and their moods, but also their words and cant phrases. Because in English society more and more classes claimed and obtained *representation* in Parliament, and thereby secured more recognition of their interests, we have made a universal rule of it that all public grievances are to be solved by extending to the aggrieved the right of representation. And in this our extension of this so-called right, we have given it to more than to everybody; we have—such is the irony of fate—actually sunk out of sight the original idea of representation for *interests*. And yet so great is the necessity thereof, that our politics are after all run by interests, and we have had to recognize their right to be heard through so-called Third Branches of the Legislatures—the *lobbies*. So too have we kept clamoring for “the right of petition,” when the grievances that led to “The Petition of Rights in 1627” never have existed among us. The petitions sent to Congress between 1834-44 were partisan tools used for mere agitations. It was and is much the same with the writ of *Habeas Corpus*. When originated in 1679, it was done to prevent arbitrary executive arrests of politically obnoxious persons; we use it chiefly in criminal practice, and in cases for which jurisprudence knows remedies equally safe and expeditious for the person under arrest, and much safer for public justice. But what is queerer still—when in 1861-66 there was a necessity for using the writ for its original purpose (arbitrary executive arrests), it was suspended, and neither the courts, nor the legal profession, nor the people, took effective steps to restore it. We were as callous to real justice as we were punctilious about technicalities.

The public wish to have a “Bill of Rights” attached to con-



stitutions, owes its origin to a document, going under that name, which had been exacted of William III. in 1689. The rights therein declared had served the fathers of the republic in their agitation for American Independence. It would have been better to have used the original name of the paper, "Declaration of Rights," for how does the word "Bill," which means a proposed law, fit into a constitution? Article XLIV. of the Constitution of North Carolina especially provides: "The Declaration of Rights is hereby declared to be a part of the constitution of this state, and ought never to be violated on any pretence whatever." In the Constitution of Ohio the phrase "Bill of Rights" is used as the superscription to Article I., containing a declaration of rights in twenty sections, the last of which contains these words: "The enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people." There is in this section an evident confusion between rights and power, as well as a misunderstanding of the object of a Bill or Declaration of Rights. That exacted of William III. was an act defining the rights of the people, as against the new dynasty which superseded James II., and it could only, when rewritten on the republican basis, be proper for a democratic constitution. We meet with such ill-suited bodily transfers often in American state papers.

We have, with the same want of discrimination, adopted the aversions of the British mind to standing armies, and are therefore enthusiastic admirers of militia systems. Washington's distrust of raw troops could not shake this popular prejudice, and Jefferson confirmed it by putting into his first inaugural address the French deputy's ideas, uttered in 1791, about "a nation in arms," and "every man flying to the standard of the law," and "treating invasions of the public order as his own personal concern," and arming himself. These idealities have kept both England and America, especially the latter, from real national armed forces. When Mr. Van Buren proposed in 1839 a wise military law, in strict accordance with the constitution, the very thing for a free people, it was denounced on the stumps and in the press and in Congress, as an attempt to create "a standing presidential army," and an insidious effort against the liberties of the people.

A similar British memory has deprived America of all regular judicial tribunals for the correction of malfeasance and negligence in the public service. Because the Courts Leet, or rather the Privy Council, degenerated in England into Star Chamber judicial proceedings, therefore we in America refuse to establish

courts of administration and discipline, which all republics, especially Rome, had in her censorships with great advantage; and we lumber up our civil courts with a business incongruous with their very organization.

We have followed British conceptions in other respects. There, with an overgrown kingly power, it seemed the very art of politics to clip executive authority; but had the same course any sense in it when pursued towards dwarfed executives? Nay, was it not downright folly to fail to erect courts for correcting administrative incapacity and malfeasance, because these kind of courts had been disused in England for reasons stated? Would their proper organization here not have been the filling of a void which we have tried lamely to fill through writs of injunction, mandamus, and *quo warranto*? We have in all the states very loose systems of judicial administration. Only in our federal government is there an approach to a proper unity therein, through the attorney-general, the district attorneys, and their deputies; in time proper ministries of justice may grow out of these.

The same anti-executive feeling has thrown upon our legislatures a species of legislation which wiser nations have attended to by executive-explanatory degrees and regulations. Three-fourths of our statutes are filled with such details, and Ohio has in her 4500 pages of enactments at least 3500 unnecessary pages. Legislative bodies cannot legislate well upon these details, so that we have not only too much, but very bad legislation, and all because we will imitate old English ways.

America has by a similar strange combination of circumstances been deprived of the main advantage which it might have drawn from the Cromwellian period of British history. Cromwell was a success as a chief executive, but he was a failure as a theocratic constructor of government; he was on one extreme of an error, the king he helped to behead on the other. The latter wanted to preserve a church and state that was becoming obsolete, the former wanted to establish one that was then and must ever be impossible. Neither tried to conduct England out of Charlemagne's duality of church and state; and yet that was what was wanted, so that England might once more have social and political freedom. Some of the regicides and other refugees brought to America Cromwell's ideas of a theocracy, and they got it into the constitutions of New England. But worse than that, they set in motion here a religious mannerism, styled by themselves "Puritanism," in which common sense had untold conflicts with pietism and hypocrisy (cant). It captivated by its gospel liberty, its sharp

economy, and sturdy independence; but we may thank the nature of man that its rule never became universal, for it would have converted all mankind into a herd of slaves.

In this connection we must not omit to mention that much the larger part of American puritanism, methodism, indeed all of the more rigorous Protestant ideas of government, flowed originally from Calvin's brains, though they were filtered through those of Knox, Wickliffe, Cromwell, Hampden, Milton, and numerous other reformers of less note. Let those who want to go to the fountains of that queer mixture of politics, religion, and social rules which is the undertone of all American society and government, read Calvin's work entitled, "*Institutio Religionis Christianæ*," and especially the last chapter, "*De Politica Administratione*," and they will find nearly every principle and rule of action that guided the stricter legislation and church regulation of the seventeenth century in the American colonies. Let them also study the laws and ordinances of Geneva, made in the sixteenth century (1541-1564) under Calvin's inspiration, especially their "*Leges Academia Genevensis*," and they will learn that America has followed not only the Catholic but also the Protestant Rome. They will find there the very origin of the development in politics, so graphically described by Fox: as "the era of good laws and bad government."

But it is time that we spoke of one of the most copious sources of American politics, viz., British literature. Here, again, it is British authorship that has principally influenced and is still influencing Americans. Even the Bible, the book of books, we cherish most through its English version and the semi-heretical interpretation given it by Anglican theologians and reformers. So, too, have we shared more of British philosophic thought than that of any other nation. Erigena (Scotus), Roger Bacon, as well as Bacon of Verulam, are (among the great thinkers of Europe) nearer to us than Occam, Giordino Bruno, and Descartes. And this rather exclusive, we may say somewhat prejudiced, Anglo-Scot nationalism still exists and constitutes also our American nativistic strength, but also its weakness. Hobbes, Locke, Berkeley, and Hume have for this same reason affected us more than Spinoza, Leibnitz, and Kant.

English thinkers have no doubt assisted America very much from being sunk irredeemably in religious bigotry.

Berkeley's verse—

"Westward the course of empire takes its way,—  
The four first acts already past;  
A fifth shall close the drama with the day.  
Time's noblest offspring is the last"—

is our staple ideality; it animates our literary youth as it did Berkeley himself in his project of his "ideally perfect university in America." Yale and Dartmouth College, as well as several libraries, attest the sincere kindliness he felt for America.

Locke's constitution for one of the American states was a stillborn production; but are not all our constitutions, yea, constitutionalism itself, futile attempts to regulate mankind by paper instruments? His "Conduct of the Understanding" has, however, been a very different work,—its teachings are household words in America.

We look upon the last-named four English philosophers as the men that have kept alive in America the cause of free inquiry, which, had they not been, partisanism on the one hand and puritanism on the other would have buried long ago. Voltaire, Rousseau, Baron D'Holbach, and Helvetius acted upon a few of the more cosmopolitan Americans, but their works not being published (in English) in America prevented their full appreciation. Berkeley had two eminent pupils here, Dr. Samuel Johnson and Jonathan Edwards, both New Englanders, and too little remembered in America. They may be considered as the two who broke the spell which theological restraint had thrown upon New England. Thomas Payne's success was due in a large degree to the preparation, which the American mind had received through Hume.

There was indeed ahead of all of them, in influence on us, England's master dramatist, Shakespeare, whose name rises spontaneously when we think of England. America had better do with him as the Catholic Church did with Aristotle (she declared him to have been a Christian before Christianity), and assume of him that he was an American before America was known. Pope of England, Burns of Scotland, and Moore of Ireland, are to-day as much read in America as in their native lands; Byron even more, in spite of Mrs. Beecher Stowe.

We ought, perhaps, to have mentioned Blackstone before this, for his authority was and is great in our courts and the legal profession, as well as in our politics; and he must be credited with many of the higher thoughts that entered into our revolution and afterwards into our fundamental laws. But must he not also be charged with many of our errors? His chapter i. vol. i. of the "Absolute Rights of Individuals" was taken by us, as indeed it is still by many Englishmen, to be a *constitutional* enumeration of the rights of persons as guaranteed in the British Constitution, and we inserted them as such in our fundamental laws. But Blackstone himself purposed by the chapter no more than to state what he regarded as the best results then reached on the



subject by jurisprudence. As these have since been much improved and cleared up, our making them perpetual rules of action has impeded the development of American jurisprudence. Besides, it may be asked whether a writer on British law can be a guide that is to be implicitly followed by a legal profession living under federal institutions.

The next important author as a source of our politics was Jeremy Bentham. He gave us the cue that "the best possible government for America would be an improved English government;" it was our *radle mecum* from Great Britain. His greatest happiness principle and his dentology, viz., "that right that is and should be enforced;" his ideal socio-political square—

Security,	Abundance,
Subsistence,	Equality;

his principles of evidence; his system of government, with the people as the ruling power by majorities; his law reforms; his proposal as to changes in the penal code; his poor laws and national ameliorations, have sunk into the American mind like a warm rain does into parched ground—not always with good results.

We call the attention of those who doubt Jeremy Bentham's influence on our politics to the following extracts from "An Outline of Bentham's Opinions," written by one of his best followers, John Hill Burton (page 395). Mr. Burton says:—

"He held that the ruling power should be in the hands of the people, because the happiness of the people being the object of government, the means of obtaining that object would thus be in the power of those who have the chief interest in realizing it. The happiness of every individual in the community would be best secured by giving every individual the species of government he would like best. But as confliction of interests renders this impossible, the nearest approach to such universal freedom of choice is to put the power into the hands of the majority, whose use of it will not only be that which is most conducive to their own liking, but will likewise be such as cannot be very detrimental to a minority which, in the case of such perfect freedom, must have too many interests in common with the majority to be in any case much injured by those proceedings which may appear to the latter most fitting."

When we read this we cannot but regret that Edmund Burke, the author of the thirteen propositions for the conciliation of England and America, March 22, 1775, could not

perform for America an analysis of Bentham's opinion. His (Burke's) course is regarded by those eccentric, who know not what devotion to inner convictions requires, and it has lost him the popularity he had so richly deserved. It was a great loss to America that the two were estranged from each other.

The foregoing outline of Mr. Bentham's opinions deserves special attention, because it contains the premises and the stock arguments of most of the public speaking and writing in the United States on the subject of the rule of majorities. Thomas Jefferson complicated the questions raised by it in England and this country by changing their form; he wrote: "Sometimes it is said that man cannot be trusted with the government of himself, can he then be trusted with the government of others? Or have we found angels in the form of kings to govern him?" Had Mr. Jefferson reasoned out the fact that all governments, from that of public authorities (political) down, through that of society, to that of individuals over themselves, are but auxiliaries to each other for the great object of social order, and he would have written: "Some men cannot and do not govern themselves, *ergo*; some men must be found that will govern them; and as we have not yet found angels to do this work, we must institute some process by which society educates and culls out of itself its superior men." He might then either have fallen in with Bentham's popular majority rule, or reasoned out its misconceptions and found for his country procedures that would have kept it from the fatal plunge into a party government, that rests on nothing but popular votes.

Both Bentham's and Jefferson's mistake consisted in applying to government the then prevalent mode of reasoning out social problems by political economists, which was indeed an advance on previous modes, but did not contain full logical truth. They both argued thus: Man has wants which he wishes to satisfy, and he knows of evils which he desires to avoid. These two motives guide him in his pursuit of happiness; and all we need to produce the greatest happiness to the greatest number is to give lawful freedom to this pursuit. Bentham grafted hereon his idea that "the happiness of the people is the object of government, and that this object is secured by placing power in the hands of those who have the chief interest in realizing it." Progressive science has since corrected this process of reasoning; it says: "Men are indeed guided in their conduct by what they *believe* to be their interests, but their belief is oftener erroneous than true, and governments controlled by majorities of votes, cast from motives of interest, are but averages of the prevailing unrectified personal disposi-

tions of the voters; they are impediments, yea, often contradictions, and hardly ever assistants in the formation of an intelligent, virtuous, and wise collective public will, which to form and enforce is the alpha and omega of all scientific government." We see that Bentham's and Jefferson's opinions lacked the accuracy of reasoning since attained. Out of Bentham's "majority rule" and Jefferson's "government of the people" grew our party government, which really means the rule of the minority over the majority; not of the people, but of one of our two parties; and that was, no more nor less, than that intriguing minorities should rule the country. It worked bad, as all party government does; but the main cause of it was the adoption, by America, of England's way of supplying its public service with officials; corrupted as it had been by Walpole's use of it for securing parliamentary majorities. The British public service had always been but an unsystematic conglomerate of politicians, with clerks as underlings, that were toadies to their patrons. The reason, or rather the unreason, of every appointment was favor, or, as they named it, "patronage." Favoritism, sinecures, and incompetency was the political atmosphere which every one connected with it had to breathe. Every really useful work was called "drudgery." All avoided it, and thus such a thing as real administrative or executive capacity was always a rarity in England. Moreover, there was no qualifying educationary preparation for any public position;—in fact could not be, where every appointment was conferred for arbitrary reasons. Who would spend his youth in qualifying himself for an office when the one, who had not qualified himself, was sure to be preferred, provided he had in some way the inner track to the ruling politician's favor. But not only that deterred him, but more still, the arbitrary removals. The public service was thus, instead of an organization and a discipline, a thing ever tending to disorganization and disorder, a temptation to mean men and an aversion to good men. The greater the man and the more correct his ideas of administration were, the less fit was he for such a public service. He was a disturbing element, because he wanted to have the wrong righted and order made out of disorder.

With Walpole's change of the constitution of England, 1734, to a parliamentary majority government, an additional number of patrons, the members of parliament, were introduced; and now offices were sold not only for money, as of old, but also for votes in parliament. And as the method of compensation for public services was by fees, the public was fleeced the

more ; because the ministry dared less than ever to investigate, to improve, and to reform.

The appointees of the Crown and the proprietors to the governorships over the colonies brought this idea of ruling through patronage with them to America, and being men of lower capacities in themselves, than those who appointed them, they carried it even farther than was practised by the British ministries. Besides, we may readily anticipate, that there was not in the colonies an over-supply of material suitable for the public offices ; for the men, who migrated to America, were not of the most cultivated and disciplined classes, nor were the colonies likely to produce many disciplinarians ; on the contrary, many *anti-disciplinarians*. American young men were, like all their colonial predecessors, more disposed to regulate others, than *to be* regulated. The British governors had, for these reasons, to extend the presumption of qualification for office to even lower capacities than the cabinets of England had done, and it took the revolutionary period but one step to create universal qualification for office. It existed, in principle, in England, and there it was only a usage that kept some offices specially for the nobility, and the usage was kept up for family and not public considerations. As there were no great families here, the rule became defunct from want of supply.

The fathers of the republic grew up under this system. It was more likely to please them for its liberality than displease them for its favoritism. They would most surely have regarded a strict system, that required pre-qualification, as aristocratic and inimical to the equality of rights, which was the basis of their ideas of government. Moreover, was not the whole thing running itself in America ? Was not Europe sending over greetings of congratulation that a human society at last existed that needed so little administration and less governing ? Had we not solved Oxenstierna's problem, given to his son as a lesson to learn on his journeys—

“—— *quantilla sapientia homines regantur* ” ?

Were we, not only self-governing our country, but, what was more, self-administrating its affairs ? What else could we need except to abrogate the foreign patronage and to establish an internal one for ourselves ? So thought, so spoke, some of the fathers at the very time, when in England, and still more in France and Germany, the prying eye of philosophic thought was looking into government generally, and especially into the public service, and preparing the way for a very different *free* system of supplying the public service with officials,—a system



free to all that should prove competent, but closed to all that could not prove it.

Franklin was the expert in shaping the sophistries that were then floating about in society. He understood, how to give seeming truth to what the people liked to have said. He had himself filled offices, and secured them to his son, without special training for them, and had noticed in others similar successes. What he had seen of the public service in England, especially the privileges of the nobility, could not please him; but it was very unlikely, that he should see reform where England afterwards found it, viz.: in the abrogation of all patronage and the substitution of promotions by special tests and examinations. The most natural thought for him was, that all his country needed was freedom from British rule and the patronage of British governors over the offices in America. Had he lived to our day and he would have seen that that change was *no* change, for we have actually continued the old British system, with all its faults and without any of its redeeming qualities; yea worse, we have sunk even local self-government in our partisan politics, and our sheriffs and other county and city officers are not as independent of partisan power as the same officials are in Great Britain. What a difference it would have made in the political development of America, if, at least, our counties, townships, and cities had preserved as much local self-government as they received as an example from Great Britain!

George Washington entered public life through the patronage of the British governor Dinwiddie; but he received this appointment, like all his subsequent public positions, for his special technical and military capacities; and all through his life he preserved his good faith to public interests by refusing to appoint men to office from partisan considerations. And, thus minded, he tried, during his two administration terms, to prevent the outbreak of partisan differences between Jefferson and Hamilton. But the latter had more executive genius than administrative faculties; and though he had a mercantile education, that made him a lover of order, he had it not sufficiently to make him a painstaking organizer. He was too impulsive not to use any means accessible to him for the accomplishment of his purposes; and even Washington could not restrain him entirely from using the offices at his disposal as a British minister of the period would have done in his place. His remark, "that the British Government would be an inefficient government if it were purged of its corruptions," had reference to the use of patronage by ministries for influencing public opinion and parlia-

ment. Hamilton never could see, how there could be government without much arbitrary power.

John Adams understood—for he so stated in his inaugural address—that cutting asunder the ties that bound England and America together, meant that it was “launching into an ocean of uncertainty.” He had seen, that “the zeal and ardor of the people during the revolutionary war had supplied the place of government;” but he had heard too, while in England, the failure of the Union, under the Articles of Confederation, to furnish an efficient government. When he returned he found a new constitution, and Washington as president, whose successor he was chosen. He liked the constitution, but thought the government under it needed better organization and greater administrative efficiency. To do this he set about in his usual energetic way, and we owe to him the general framework of the executive departments. But he became unpopular, and, we opine, the main reason was, that he wanted a better government than public opinion desired, and that the public mistook it for a wish on his part to grasp for more. And that was a betrayal of republicanism as they understood it, for their own ideas were that reform consisted in having less and less government. And as he failed to see that the fundamental error in the public service was the use of patronage as a partisan power, we cannot say that the public was entirely wrong. Of what use is the strengthening of a government, whose appointments and elections tend to the disintegration of society?

Jefferson had an inner aversion to the British system of administration, and he rather liked the French method. He disliked also the word patronage, and would have had none but competent men for public employments. He was therefore open to Albert Gallatin’s suggestions for improving the public service. But for a thorough reform Jefferson had too little organizatory talent. Gallatin lacked, on the other hand, the charity to incompetent men so necessary in England and America. He knew not how to reform and yet to “temper the wind to the shorn lamb.” Jefferson’s mind was also too full of the self-working capacities of what he called “*free government*” to adopt and to carry out patiently, yet diligently, a system that would educate men for conducting public business. He yielded his approval of the West Point Academy very reluctantly. Mr. Jefferson had besides, in 1800, been exasperated by what he regarded as a war upon himself and friends—the exclusive appointment of Hamilton and Adams’ friends to office. He wished to equalize the offices, and he removed and appointed arbitrarily for this purpose, so that he lost the thread by which alone the whole

system could have been abrogated and a better one substituted. He thus perpetuated what he really inwardly disliked, what Washington despised, and his friend Gallatin clearly knew to be the coming curse of America. None of his successors took up the subject again; it had spun itself into the politics of the country so entirely that every reformatory thought was always frightened back again, before it could ripen into a clear understanding.

The influence of Holland on our politics must not be forgotten. The very name, "United States," had its origin in the name, "United Netherlands." The Puritans brought with them from Holland the intensification of their own separatistic tendencies, which always follows a mingling of political with theological doctrinarism, and which the anti-Oranianists or states-rights' men of Holland had cultivated. The New England colonies formed their Union of 1637 after the name and model of that of the Republic of United Netherlands, or Union of Utrecht, and carried into it the same peculiar intermixture of religion and politics. That Union of the New England colonies lasted forty years. The renewed union movements, of 1754, that were originated by the British ministry, and in which Drs. Franklin, Alexander, and Cobden co-operated, had a much higher character, but there, too, were frequent references, in the discussions, to the union plans of Netherlands, but they failed from mutual jealousies. The *Presidency* was then first named, and the example of the General President of Holland was referred to. The truth is, we got our unionistic tendencies, but also our states-rights' jealousies from the Netherlands; and a study of Olden Barneveldt's history and hard fate, is useful for understanding both these tendencies, as they subsequently developed in America. The anti-centralistic (or, if you please, the anti-national) feeling had, however, an earlier source in England. The church establishment, both under Catholic and Protestant auspices, the cities and towns with their guilds and corporations, saw liberty chiefly in their own autonomy, and were sticklers for their so-called rights (really privileges); they were always against central authority. The same feeling was still more developed in the cities of Germany.

All the foregoing sources of American politics are, of course, like the rivulets that form a big river, losing their distinguishing features more and more in the mighty current of our public life. America is now coming more and more to herself, and enjoying the luxury—often, too, suffering the misery—of having grand political issues of its own, in which historic research would

seem to be of less and less benefit.<sup>1</sup> America is ceasing to be, in more ways than that of immigration, a house of refuge; for Europe also is coming to herself and finding that what its society rejects, because incompatible with permanent social order, is very unlikely to be a sound basis for new institutions. Europe has pretty nearly ceased to send us any more idiosyncrasies, it does not breed many more itself. Our party governments and sectarian churchisms are shutting out, as much as they can, all the new, higher, social and political developments that have given Europe a renovation which was all but fifty years ago believed impossible. Europe has thereby almost changed places with America. The new world seems now to be the old east and not the new west of the Atlantic, for our parties and our churches have made us look prematurely old.

This oldish look of so young a society comes from its being the child of an old society; it has on its face, like children born of old parents, the wrinkles of its procreators. Its personal, social, and political habits and institutions rest on stays invented for the preservation of a social order which is passing away in the old world, and never had more than a temporary, and then only nominal, foothold here. We have therefore, for our constitutions, not the permanent and inherent political organism which this land and its people ever needs, nor the superstructure that time and peculiar circumstances shall develop, and which constitute our differentiation of the general principles and nature of government. What we have as constitutional rule is three-fourths of it absolutely useless, whilst the other fourth is a soul-less shell. We understand ancestral jurisprudence, theology, and political practices; but ourselves, our country, our present and our future, we do not comprehend; nay, we do not even consider its concrete issues. The worst of it is, that we are so habituated to move in the leading strings of obsolete precedents, that in all things in which there are none, we stand bewildered as before an insolvable problem. Because Great Britain never had any truly organic administrative institutions, we have none either; and are for that reason constantly perplexed by the inefficiencies of our governments. As England has lately moved

<sup>1</sup> How a community may transform an original rule into an opposite idea, may be seen in the provisions of several American constitutions, that no sheriff shall hold that office for more than four out of six years. It was originally enacted in England for the reason that being elected to and holding the office was so severe a strain on men's purses, that it would impoverish a person to hold it more than four years. The duty to discharge any function imposed either by appointment or election was therefore suspended. First it was a relaxation of an obligation to hold office during life, if this was deemed useful to the state by the authorities or the people. As changed it was a restraint on personal ambition and cupidity.



in this matter and done well by it, we presume that he who shall hereafter write on American politics will record as a further source of them the late changes in English administrative organisms. We are so prejudiced, as to the virtues and vices of the public service of France and Germany, that it cuts off all hope that we shall ever use the good in them as models for our reforms.

## CHAPTER IV.

*THE DECLARATION OF INDEPENDENCE.*

‘The actual is also always the rational.’—*Hegel.*

THE frequent reference to this baptismal state paper of our Union in other parts of this book, may make it seem superfluous to devote to it a separate chapter; yet, for reasons that will appear herein, we think it proper to treat of it specially, in the few pages that follow.

The document has passed through several ordeals: first, that of a reaction from the brilliancy ascribed to it by its contemporaries; second, that from the indifference which, after a more sober judgment had set in, and had sharply criticized it; and third, that of the period when, between 1856–65, it was an instrument for popular intoxication. To show that the paper never deserved either treatment, seems to us the proper way to bring out its real intrinsic merits.

And, to begin with, it is well to understand that it was but the declaration of an act long previously prepared, and in fact proclaimed when Congress said graphically, July 6, 1775: “We have counted the cost of this fight, and prefer to die as freemen to living as slaves.” Independence lay in the womb of time from the first British settlement in North America, and was sure to be born, whenever there was population and wealth enough, to make it feasible to assert it by force of arms. The special merit of the declaration of July 4, 1776, is, that it exhibits not only high patriotism and humanitarianism, but also the sense of obligation, that states which claim their independence and sovereignty, must give good reasons for their action and prove the rectitude of their intentions. That it represented this (by 1776) well-matured collective public will of the American people was its title to international respect.

The document is, however, more than a manifestation of an honorable public spirit; its authors deserve special credit for

their dignified execution of an, in itself, proper public purpose. It nerved the public mind, so that a relapse was impossible after its promulgation. As to the subsequent interpretation of the instrument and its uses for partisan purposes years and years afterwards, it is entirely innocent. And we say no more than what every signer would declare, if now alive, when we assert, that it is neither a "gospel of freedom for all mankind," nor a "fundamental law of the United States," nor "the declaration of new principles of personal liberty or civic freedom," nor "an act either removing social inequalities or establishing any equalities." Still less is it "the initiatory step towards future social reformation in America," or a "reconstruction of society therein." It left all the relations of life as to rights of persons and things untouched, and it could not have been adopted, if it had interfered with them. Neither was the document a new Magna Charta, nor a recital of conditions and terms upon which any public authority was either instituted or submitted to. All *that* belonged to the Articles of Confederation, then under consideration in a committee of Congress charged with their preparation. It was simply the birthcry of a new-born realm under the expressive name, United States of America. But the name stated a fact, that of a union of states; it did not ordain any law for this union, nor create a nation, though full of national inspiration. It asserted not only the primeval right to be free, but it did better—it acknowledged the duty of a people, so to act, as to deserve their freedom.

To remove all doubt upon this subject, the Congress that passed the declaration also announced to the world that the new republic admitted itself subject to the law of nations. And *that* act, not the declaration, made it a rightful member of the family of nations. Other governments could now acknowledge its independence without giving to England any *just* cause of war; for it implied the admission by the revolting colonies and their people, that they meant to organize efficient government and avoid falling into a state of anarchy. The duty to be an organic totality was the correlation of the right to be independent; and in this sense it was the abrogation of a false loyalty and the establishment of a true loyalty. Franklin was its pioneer, Adams its advocate, Jefferson its expounder, Washington its personification, and the United States Congress its executive agency. It ended in a successful revolution and the erection of a "states union." In adopting the Articles of Confederation, July 1778, the Congress attributed them to divine inspiration in these words: "Whereas it hath pleased the great governor

of the world to incline the hearts of the legislatures we respectively represent in Congress to approve of and to authorize us to ratify the Articles of Confederation and perpetual union; know ye," &c., &c. In the Constitution of 1787 both the great governor of the world and the state legislatures are dropped, and "the people of the United States" step forth as the factor of the new fundamental law, "in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and posterity." The United States now felt like having fulfilled their duty to the nations of the earth.

That it was not deemed to be a constitution is evident from the document itself. It has this passage: "He (the king) has combined with others to subject us to a jurisdiction foreign to our constitution and unacknowledged by our laws." What constitution? What laws? Surely not any that were in the instrument itself. Nor any written fundamental law then extant; for we know there was no such state paper. True, Virginia, North and South Carolina, Pennsylvania, and New Jersey had formed their state constitutions, or were forming them, but *they* could not be meant. Blackstone speaks, vol. i. star-page 67, of "the free constitution of England," but he holds in other parts of his commentaries that it did not apply to the colonies of England. We learn, however, from contemporary history that much was said then of a true constitution that exists for every land and its society, and is above all arbitrary institutions; and perhaps Jefferson meant *it*? But when we analyze the principles on which independence is claimed, we find that it is no more than the inalienable right of every society to develop its own constitutional laws and the organisms suitable to its own social conditions. And when we examine the "Bill of Rights" passed by Virginia, June 12, 1776, we see that that document claims the rights asserted therein "to pertain to them and their posterity as the basis and foundation of government, and as inherent with all men when they enter into a state of society, and that they cannot by any compact deprive or divest their posterity of them." And we opine, therefore, that Jefferson meant this inherent constitution, and he proved thereby his capacity to anticipate teachings of political science which have been but lately promulgated in Europe; if it were not that he also spoke of "the free system of English laws," which gives rise again to the belief that he referred to Blackstone's "Free English Constitution."

Jefferson, his contemporaries and associates in Congress, were



much more under the spell of the old Anglo-Saxon feeling, that was ever thinking itself to be shouting freedom, when they murmured the words of *Magna Charta*: "Nullemus mutare leges Anglicæ." That is what was meant by the phrase, "Free system of English laws." System indeed! System by common law!

Had Mr. Jefferson had himself alone to consult in framing the declaration, and there would have been in the document more general arguments for a free government, and fewer technical objections to the rule of a special British king; but we doubt whether it would have been as effective a state paper. There were then in America a large number of persons who had admitted allegiance to be due to the British Crown, and to whom reasons for holding themselves absolved therefrom were particularly welcome. The most potent of these, because the one which even British jurists and politicians would admit, was the clause: "He (the king) has abdicated government here by declaring us out of his protection and waging war against us." Such passages as these won over, or at least neutralized, many persons, who hesitated because they were not prepared to adopt revolutionary ideas that rested on primeval rights. It was otherwise with the free spirits of Europe, and they were attracted by the more radical assertions of the eternal rights of human beings, which Rousseau had claimed to have re-found in the nature of man. The American conservatives took the democratic tendencies of the paper out of satisfaction for the legal technicalities, while the radicals on both sides of the Atlantic took in the—to them useless—specific charges against King George, out of pleasure with the arguments in favor of popular rule. Had George III. never claimed more power in America than he did in England and the Declaration of Independence would have been minus several points that won it supporters; for Jefferson would have had a much shorter recital of special grievances. That part of the Declaration of Independence was intended for English readers, very few of whom ever read or appreciated it.

When a little over a year after the promulgation of the declaration the British Crown offered as terms of peace, "that no British army should be kept in the United States, that no tax should be levied without the consent of the colonial legislatures, and that the colonies should be represented in parliament," the offer was rejected, though it conceded the main points of the declaration of July 4, 1776. France was then ready to recognize the American republic, Gates had surrendered to Burgoyne, and the American public mind was habituated to thinking itself a free people. It was then in love with itself,

and it hated specially those Americans that had sympathized with royalty. It had thus the double cement of union, a strong love and a strong hate; and they adhered to their cause, because a representation in parliament was no longer an object with them. They understood, by that time, of how little value a minority representation is, and felt that they might as well fight for and secure their freedom free from all entanglements with Great Britain; for the other meant only as the same means now for Ireland: to be a minority, and to be under the necessity of a perpetual intrigue and struggle for rights and political position. They thought it was better to be somewhat inconsistent with their declaration than with their innate freedom. True, their watchword had been, "No taxation without representation," but it had now dawned upon them that power exercised by a parliament in which they had but a minority representation, would be no more *their* public will than acts of parliaments in which they had no representatives at all. The attempted succession, in 1861, brought this question again before the American public mind, but it was decided very differently by it.

It was, however, hardly fair to make the king the scapegoat of the animadversions upon the specific causes that justified the revolution. The British Government was no longer a mere royal reign, it had a ministry responsible to Parliament; and the latter might have removed any day the causes of the struggle for independence here. Parliament was open to popular influence, and there were in it men like Pitt and Burke, who, if public feeling had backed them, would have brought the majority to reason. The "British brethren," of whom the declaration speaks, were, therefore, not merely "deaf to the voice of justice and consanguinity;" no! they were then, as ever, only open-eared and open-mouthed for those cabinet ministers, who advocated the assertion of arbitrary British power. It was, therefore, begging the question to bring in their "native justice and magnanimity," or "the ties of a common kindred." If the ground on which independence was claimed by the United States was correct, then *they* owed us nothing of the kind, nor did we anything to *them* on account of any relationship. All we could rightfully accuse them of, was their taking a false view of their true interests. It was, as we think, an inconsistency with the fundamental right of American independence to allow, even indirectly, that, because there was kinship, there was either a duty on our part to subordinate ourselves to British law, social rules or interest; or a duty on their part not to pursue their interests in their intercourse with

us. Our social order could not be like theirs, theirs hardly ever like ours; and this social unlikeness, or, if you like, diversification, is the original cause of the right of independence and of separate social and political developments. Not ancestral consanguinity, but harmony of political institutions with social conditions, is the true reason and object of all public conduct.

We cannot join, therefore, in the praise bestowed on those parts of the declaration, which express reluctance at the impending separation. Instead of saying, "We acquiesce in the necessity which denounces our separation," stress should have been laid on the right as well as the duty of every people whose social conditions are necessarily dissimilar from the home government, to bring its constitution in agreement with its social order. It should have been most squarely asserted, that even the best parts of British institutions would be hindrances to proper American development, if they were imposed by British authority and not previously modified and made applicable to our society. *Its* bosom could alone be the rightful fountain of public wishes, and *its* intelligence was the only final judge, as to their being constituted into the public will and as such enforced. America's new society did not want *more*, but *less* further infusion of old blood into its veins; nor had England any to spare. And Pitt pointed, prophet-like, to the great danger to England in its being connected with a colony or outside possession, that would tamely submit to arbitrary British authority, when he said: "that such a people were not only slaves themselves, but fit tools to make slaves of others." The point, that freeing America then from British rule was freeing a future Great Britain from American rule, should have been brought out. It might have looked immodest then to some superficial observers; but deeper thinkers would have known that it would only have expressed the great truth of history, that, a people sought to be subjected to an unjust public will by another nation, will always in the end turn into subjugators of their oppressors.

To charge, upon George III. specially, the grievances that justified armed resistance to British authority was ingenious, but not ingenuous. They *were* acts of arbitrary power, but not the product of personal arbitrariness, for the people and parliament of Great Britain shared in it. The actions were done in strict accordance with "the free system of English laws," a part of which has ever been the policy to strengthen Great Britain at the expense of the liberty of others. Indeed, we may add, this was, as to colonies, the law of Europe. It recognized as to them "the establishment of an absolute tyranny," such as the

declaration complains of. It had but one correlative duty, that of protection; and the strongest point made in the declaration was that in item 23, already quoted, to wit: "He (the king) has abdicated government here by declaring us out of his protection and waging war against us." This referred to the use of English as well as hireling soldiery in the spring of 1774, which led to the bloody struggle at Lexington, and the year following to the battle of Bunker Hill. The American Congress thereon hesitated no longer to meet force by force, and Washington was made commander-in-chief; so that the declaration was really more the triumphant vindication of actual occurrences than the assertion of new principles.

Not only the ligaments of royal as well as parliamentary authority of England over America had been snapped; but also the ties of affection that had till then bound America to the British people. And it was followed by an estrangement that made it very difficult to keep the promise made in the declaration, that "the English would be held, like the rest of mankind, enemies in war, in peace, friends."

The taxes and assessments imposed on the Americans in 1764-70 were neither unfairly large nor in themselves unjust, if British enactments could impose them. The colonial legislatures would perhaps have paid them, if a proper appeal had been made to them; but to exact them by act of parliament, to pass declaratory acts, as was done under Rockingham, viz.: "that laws of parliament were absolutely binding on the American colonies;" and then sending mercenaries to enforce them, was the wrong way to reach this object. Clay said once, that "America fought against the mere theory of tyranny," which is true; but they did not fight as long as the king did not himself levy war. Then Congress declared: "We have counted the cost of this fight, and we prefer to die as freemen to living as slaves." What was offered in 1777-78 would have sufficed at any time before 1774. And this presents the question: whether we should regret or rejoice, that Great Britain was then blind to its true interests and drove the United States to separation? And that depends on the deeper issue: whether persisting in modelling American life after British manners, religions, and politics was the true way to a proper American development. If it was, then separation was an evil; if not, it was a benefit. And we know we run counter to what claims to be national Americanism, *par excellence*, when we give it as our opinion that British precedents have been followed oftener to the harm of the American people than to their good. Even to-day, the less British we are, the better for the nation.



In conclusion, we have to say that the most valuable parts of the declaration, for all time, are those which prove that America had been freed of much theological, political, and social obsolescence, through European writers. We refer here specially to Rousseau's "Laws of Nature," and "Nature's God;" Holbach's "Inalienable Rights;" Hume's "Eventuality and Constant Succession of Events."

As a text-book on the nature, sphere, and object of government, it has a waning value, because it contains too much technical reasoning that is drawn from a special jurisprudence which is very seldom abstractly correct.

The document has, for this reason, served the demagogue oftener than the statesman; for the American public mind was indoctrinated with the belief, that it was an axiomatic conclusive delineation of the rightful source and scope of government; and it has treated askance the much clearer views since attained, which Jefferson himself, were he alive to-day, would have imbibed and presented. And this aversion, to learning from science, is the cause why there is now, in our public (official) life, no man that would write another and better declaration; nor a Congress that would sanction and subscribe it. Fifty years ago the one of July 4, 1776, was still eagerly listened to by crowds; now indifference has set in, because the paper has been besmeared by being misused for partisan purposes and for setting aside the constitution. The true meritoriousness of the Declaration of Independence seems almost buried out of sight, which we regard as a serious break in the understanding of our political development. Instead of being accepted as a valuable memento of faithful action under trying circumstances, it has been used as an indicator towards the future, for all time to come. When restored to its real value, it will be seen more fully than now, how wrong it was in Calhoun to speak of it as a document full of "glittering generalities."

## CHAPTER V.

## THE ARTICLES OF CONFEDERATION.

“Look around the habitable world—how few  
 Know their own good, and knowing it, pursue.”  
 —Franklin.

THE book called “The Constitution,” published by Rev. W. Hickey, 1846, and of which a large edition was purchased by Congress for free distribution, uses the following language in reference to the Articles of Confederation:—“The confederation having given place to the American Union under the Constitution of the United States, it was considered unnecessary to insert, in the first and second editions of this book, the Articles of Confederation; *but on further consideration these articles have been inserted at page 471 merely as a matter of history*, as it were out of place to mingle that inefficient form of government with the present approved and successful system, which has stood the test of more than half a century, and which is destined, under Divine Providence, not only to perpetuate the happiness and safety of the people of the United States, but to be the Great Exemplar of Nations.”

We quote this passage, italics, capital letters, and all, to show how flippantly a certain class of partisans can hustle down the wind an instrument adopted by the revolutionary Congress, because it was framed upon a constitutional principle which the author dislikes but does not understand. We learn also how thoughtlessly such persons can eulogize another state paper when it stands in the zenith of popularity. This sort of condemnation and praise proves only the poverty of mind of the writers; for it never occurs to them to look to anything but the parchment-form as the cause of national glory or decay. That the Articles of Confederation were innocent, of the “inefficiency of government” between 1778–87, ought by this time to be clear to even the dullest understandings. That state paper was at least consistent with the theory on which it was framed; and if that theory was inconsistent with the political practices of the then

American society, it was not the fault of those who drafted the articles, but of the people and their state governments, who would not follow them. All the inconsistency there was, arose from the fact that they put ideas of government on paper, while the public mind moved in very different grooves. The American people have never yet been great enough to be a federal people, though true federalism is the true theory of government for them.

We would ask those, that are so ready to condemn the articles, to tell us whether any fundamental law written then could have been lasting. Let them reflect on the fact that society was then under constant and rapid transformations, and they must see, that such a society could not be either the mother or bearer or conductor of positive—stringent—political institutions. The articles were ephemeral, not from any intrinsic fault of theirs; but for the reason that they had no matured foundation in the popular mind. Every state constitution, then made, has had to be altered, because the change made from royal to republican institutions, necessitated not only new bases for political reasoning, but also new political manners. And beside all this, it was a society, whose members were engaged in a hurdle-race for landed possessions to sell again at a profit; and in it there were not, and could not be, any classes that had either the time or the interest to meditate on and to perfect political institutions that should perpetuate their rights and interests by adding political power to their social forces. The population wanted simply freedom in its hot pursuit after wealth; and it was not an accident, but an inevitable incident, that the first great public issue under the articles was the land question, and that it had to be settled, extraneously of the articles, by the *abnormal* ordinance of 1787. To us it seems clear, therefore, that the present constitution would have passed away just as the articles did, if it had been adopted between 1776 and 1783. There being no settled society, how could there be permanent governments? The public mind could pile constitutions upon constitutions, just as mother-earth, when in volcanic action, piles lava upon lava. This tendency to frame fundamental laws, when the foundation for them was wanting, aggravated all social and political difficulties. Thus society had to reverse the true order of things, and work out social problems under the brakes of political theories and political functions, amidst the incessant importunities and accelerations of social covetings. The articles meant a government resting on a well-matured but prompt and persistent public will in the discharge of public obligations, such, for instance, as the payment of public debts and the

interest thereon, while the public mind wanted a government slow in that regard, but brisk in all things that brought riches to the masses. In short, the articles and the people were not agreed, and the same want of accord has ever perplexed American politics.

Government was accordingly inefficient under the articles, not, because they embodied an imperfect federal law, but because society was inconsistent with the integrity they required. The fact was, the public mind equivocated between its real desires and its patriotic professions. A federal union, eternal amity between the states and their peoples, the preservation of the public credit, and honest taxation, was on everybody's lips; but in the hearts were the wishes for a government, that would furnish them facilities in the pursuit of riches, and allow free play to the jealousy as to each other's advancement. The love of fluctuating paper money, unfair taxation and injustice, as to the relations of debtor and creditor, lurked beneath all patriotic pretences. Lip-politics were written down in the articles, while the actualities outside of them really governed the people. One or the other had to give way, and, of course, it fell to the articles to do so. But it would be now, as it was then, a fatal illusion to think, that the conflict between public theories and the public practices ended when the Constitution of 1787 was adopted. No! we shall see in subsequent chapters that it took only new and acuter forms; because it has ever pleased our people to cover their actual political and social conditions with fine public institutions, and to pretend to a tranquillity, which it did not and could not have as a fact. It was so as to the articles. It took some ten years to perfect them; and when they were finally adopted, the union sentiment, that was fresh and sincere in 1773 under the necessities of the impending armed struggle with the military forces of Great Britain, had become stale and hollow. And when it was to be brought to the higher heat, that was needed to create a government over themselves, and to enforce a public will, that was to curb their own passions, it required refreshings through the country's great men.

Permanent political organization comes through social interests that need stability, and it is always a mistake to seek to use forms of organization that were improvised for overthrowing a government that was established by the old forces of a society, as the institutions of a people for their permanent organisms. They will ever prove unsuitable to the new state. That error was universal at the end of the last century, and the articles were, as a failure, but first in time. They have had very



numerous successors since in every country, perhaps least in Great Britain, because it adhered to its unwritten constitution, and had for that reason more political flexibility. The English have also a faculty of self-deception, which aids them much in reconciling public opinion to changes, viz.: they call the old new, and the new old.

Let the reader reflect on the numerous constitutions since framed, in France and elsewhere, in the heat of political agitations, and he will realize, that working up a people to the fervor necessary for throwing off false government is one task, and that the production of a tranquil public mind, such as is needed to call for and to submit to a future permanent rule, is quite another. America had an early example on this point in the union of 1643 between the colonies of New England; it was declared to be "a firm and perpetual compact of amity for mutual protection, defensive and offensive, for counsel, and in all just causes, to secure and spread the truth and liberties of the Gospel, and for mutual security and welfare." But the professed objects, permanent as they were, covered only a temporary actual purpose, that of fighting the Indians; and when that had passed away, other social and political reasons reassumed their importance and dissolved the union compact. The attempt to organize a general North American Union in 1754 fell dead-born, because neither the colonies, nor their people, nor their rulers, were sincere.

It is interesting to note, amidst so much public prevarication, the private, or rather, let us say, the individual labors of Franklin and Washington, and especially the circular letter of the latter to the governors of all the states on the dismissal of the army, June 8, 1783. His four cardinal points were—

(1.) "An indissoluble union of the states under a supreme federal authority.

(2.) "A strict observance of public justice.

(3.) "Appropriate military institutions during peace.

(4.) "A peaceable friendly disposition of all inhabitants of the United States towards each other, and it so marked, that the narrowing prejudices may be abandoned, and that, not thinking of their own special interests, they may concede to each other all that furthers their common welfare, and always ready to sacrifice their own advantage, if the prosperity of the whole requires it."

That spirit was no doubt in the minds of those that framed the articles. Faith in it made them call it a "perpetual union," and gave them the fond hope that it would endure for ever. But was the public mind, or of even that of the prominent

state politicians, filled with such aspirations? We all know that this was not the case, and *there*, not in the articles themselves, was the cause of the short-timed life of that instrument. It was indeed an imperfect government; what written constitution was ever otherwise? But it contained the very perfectibility which, if society had had the right temper, would have been used for the very constant improvement, that alone could make it as perfect as it could and ought to be. Throwing them aside altogether, as was done in 1787, was hardly consistent with the pains taken to get them adopted.

The gravest error of the articles was the want of an efficient chief executive; but was not this deficiency caused by the anti-king feeling of the time? What American constitution has not the same defect? Are we not still cowards before royal shadows? Who of us, then, may blame public men, that had been engaged for years in setting a wrong kingship aside, for not realizing the fact that their first duty after securing this end was to institute a rightful and effective chief magistrature? It was also a mistake to follow Franklin's hobby and to have only *one* legislative body; but who was then free of the folly that accepted the law-making power as the only branch of government that was safe in itself, and needed only powers and no restraints? There was also in the articles too much doctrinal state sovereignty, and too little of that ethical sovereignty which is a sovereignty *bound* to evolve state righteousness. The fiscal arrangements were particularly lame; but has not the entire history of congressional taxation since justified the extreme caution of these provisions?

If now, however, we come to the *positive* virtues of the instrument, we must see how broad and sound a foundation it had in principle. Article IV. contains a national citizenship, free from the ancient narrowness of clannish burgherism, but free also from a too loose naturalization. Free *state citizenship* is the standard measure for all privileges and immunities which the inhabitants of each of the United States are to enjoy while sojourning in the sister states; and surely every person understanding federal law must admit that this is the correcter principle, and that the provision of the present constitution is illogical with itself.

This Article IV. was written by Mr. Dickinson, who had himself been an emigrant from Pennsylvania to Delaware; and he had experienced in himself not only the value of independence, from a disagreeable general state sovereignty, but also that of economic freedom in local administration. And he confined for that reason the rights of sojourners from other

states to "free ingress and regress," and to the privileges of "trade and commerce." And in this way he *excluded* claims for political privileges that could but disturb society. The presumption, which was afterwards put forth, that a United States citizen was *eo ipso* a citizen of every state, and had as such the right to exercise in other states, than his own, the utmost liberties, was thus cut off. We do not agree that the provision of the present constitution is open to such a construction, when properly construed, but it is certainly not as closed against it as it should be. Mr. Dickinson seems to have understood, that the root of citizenship must be in local rights and duties; that every society's most important right is "to determine who shall be its members and which of them shall enjoy political franchises." And his mind seems also to have been clear as to the right to receive public support; and he drew, therefore, in Article IV., the clear lines of demarcation, which were afterwards lost again, when fierce anti-state agitation had obfuscated the popular mind. Folks may think this line unnecessary; but when we remember how the right of representation is also affected by these provisions, it would seem to be specially necessary that we should be particular, when we draft provisions on so important a subject.

In this connection, it may be proper to bring in the remarks of Franklin in his letter to Lord Kames, 1770: "Every man in England seems to consider himself as a piece of a sovereign over America; seems to jostle himself into the throne with the king, and talks of *our* subjects in the colonies." A similar insolent claim was put forth, 1854-60, by some northern fanatics, as to the people in the southern states; and their process of arguing seems to have been this: "There *is* an American people! It *is* the sovereign of America! I am one of that people! Hence I am one of the sovereigns! I vote! My vote is my will; and when added to others so as to make a majority, it is a sovereign will, that must be obeyed by all subject to it! The south is a part of our dominion; *ergo*, its social and political condition concerns us! And we, citizens of other states, have the power to regulate them!" These very views we heard expressed in 1843 by a member of Parliament in the House of Commons as to India and other British colonies. It is the same mistake as that of the ancient Roman citizenship in the provinces, and it is at bottom the basis of the universal authority claimed by the Church of Rome. That it should not have a place in a federal constitution seems obvious to us. We have also no doubt that it had much to do in bringing on our civil war in 1861. Thus—

“Tall trees from little acorns grow.”

And we have here another instance of the mischief that always lurks in federal laws that are equivocally expressed.

There being but *one* legislative body in the confederacy, it could be only a *states-house*; but it is not so clear, why the *delegates—nomen et omen*—should be subject to recall. That reserved right of state legislatures destroyed both the legislative unity and consecutiveness; the very thing which should have been well secured to a body that united in itself almost all the powers of government. The more a state exercised this prerogative (of recall), the weaker it was in the federal councils, and the less it was used, the stronger it became, for the longer a delegate remained such, the greater was his influence; and of course the short-timed delegate was weak accordingly. Delegates were carelessly appointed and carelessly recalled.

Articles VI. and VII. contain chiefly negatives upon public authority, a favorite but dangerous mode of correcting and limiting constitutional provisions, when open to the construction that all power, not denied, is authorized. It is constitutional patchwork, with the patch always beside the hole. The clause, “No state shall lay any imposts or duties which may interfere with any stipulations in treaties,” was such an affirmative negation; it encouraged really some very unfair levies by states, and prevented the ratification of the very wholesome amendments proposed by New Jersey, “for additional powers to provide means for paying the public debts, &c., by laying duties on imports and prize goods.” Had that amendment been adopted and the articles would have been continued, and soon afterwards powers over the management and sale of the public lands would have been added, that would have relieved the Union of the then rampant state tyranny.

It is a fact worthy to be recalled in this connection, that Earl *Stair* was the first person who suggested, as cabinet minister in 1723, a joint system of national revenue to the American colonies. He gave it as his opinion “that a common duty on imports might be collected by a body of delegates from the different colonies without an act of parliament.” This suggestion is remarkable from a British minister, and it is ever to be regretted that the colonies did not adopt it. A similar opportunity was let slip in 1754, when the British representative at Albany, New York, initiated a movement for a general union of British America. It was seriously urged against this plan in New England, “that it was a violation of the privileges of Englishmen to allow a general government to levy taxes by its own volition.” We cannot stop to argue how erroneous this construction is as to



the British Constitution. We can say, however, that a national levy for national purposes is nowhere denied by British jurists; but admitted by most of them as sound on principle as well as policy. What has been practically gainsayed in England is the right of the general government to order taxes for local purposes. But even that negation is now giving way as to school purposes, and in time it will wear off as to roads and other public improvements. The doctrine was, however, exceedingly rife in America up to 1787, and we owe to it the defective provisions in the articles as to federal revenues. Yea, and much federal tax nonsense afterwards!

Article IX. is the longest of the *thirteen*<sup>1</sup> articles; it occupies about half the entire space. In it is manifested more of the national or ethical consciousness of the framers than in the other paragraphs. The understanding and purpose is there definitely expressed: that the Union authorities shall personify the United States,—though the words are invariably written with small *u*'s and *s*'s—that on every subject entrusted to them they are recognized to be the superior public will. The ambassadors sent abroad are to represent the Union, and all army officers above the regimental are to be federal officers. But the ingrained anti-king feeling would not allow a permanent commander-in-chief; he was to exist only during war. Indeed, it seems to have been the purpose to have no federal military establishment in time of peace; and whatever forces should be raised for war, were to be by state *quota*. This was but the miniature of the miserable old English army system, whose spirit was so well described lately in Parliament as meaning “aristocratic officers and slavish privates.” The revolution had succeeded, in spite of the defective provisions for the support of the army; and when independence was acknowledged, it left the country with a discontented body of soldiers, especially officers, (Captain Shays and Aaron Burr amongst them), a prevaricating Congress, and an indifferent people. And it was, under the circumstances, held to be a necessity to disband the army as soon as possible. The policy was, however, in our opinion, a serious mistake; and it would have been much better to have merely reduced it, and to have left part of it as a nucleus for future reorganization.

How clearly the revolutionary Congress could rise to the square recognition of the authority necessary to a federal union, we learn from clauses second and third of Article IX.: “The United States in Congress assembled, shall also be the last

<sup>1</sup> We often wonder that superstition has not charged the failure to this fatal number.

resort on appeal in all disputes and differences now subsisting, or that may hereafter arise, between two or more states concerning boundary, jurisdiction, or any other cause whatever." The absence of such a clause in the Constitution of 1787 proves, that this *new* paper was not always in advance in federal jurisprudence.

The provisions for the calling of an arbitration court with final jurisdiction, which follows the clauses quoted, were, to our knowledge, never used, and dropped without comment in the new constitution. The idea for such a court came from the federal institutions of Germany. There it was called "Austrägal-Gericht." The form for it in the articles was English, as we find the judges named as "Commissioners." In Germany the supreme court of a disinterested state was selected; and the military forces of the same state were used for the enforcement of the decision. In the articles no provision is made for any such enforcement. The court, or rather commission, was rather cumbersome in the details of organization, and yet it is ever to be regretted that some such provision, only more simple in machinery, was not inserted in the new constitution.

The supreme court, afterwards provided in the Constitution of 1787, was a very different judicial power. It is confined to *cases*, and so far it was a supply of a defect in the articles, which had no judiciary of that kind. But the fundamental object of the establishment of all authority, especially that of a federal nature—to wit: the harmonization of its society by solving the *questions* that arise out of conflicting and competing interests—was not secured; and is not now a part of the jurisdiction of the United States courts. Nor is there any other provision for such an object, unless the practice, since occasionally adopted (last in 1877), that of Congress improvising commissions with judicial powers, is accepted as such. But it must not be forgotten, that such commissions are created under powers into which Congress construes itself *ex necessitate rei*, a most questionable source of authority in federal governments. It were better to have them constitutionally provided for, or what would be still more preferable, to have—as Hamilton indeed suggested—a standing high court, independent of political parties. And it is, we presume, proper to add here, that both the articles and the Constitution of 1787, as well as the judicial organism of the United States and of all the states, lack special courts of discipline and administration for the prompt adjudication of all cases arising out of disputes between citizens and official authorities, as well as between the several offices and officers of our governments. They should be erected.

The Post-Office department of the articles is their only squarely-instituted *constitutional* executive organ, and indeed the only recognition of the *utilitarian* objects of national governments and administrations. This exception is so remarkable, because it shows that the fathers could not, after all, close the new government to all organisms, for what may be embraced in the general term, public improvements. The General Post-Office was also the only public authority that existed for all the colonies under British rule. Benjamin Franklin was the Postmaster-General (the English have *Generals* for everything), and he continued to be such for some time after the revolution had commenced. And the reader will please note that there was accordingly *one* united public service for utilitarian purposes, before there was a union for political objects; and that thus the principle of science, that social causes are the primary factors of political organizations, was also verified in America's earlier history. It is important that we carry this perception with us in all our reflections on American politics, not only, because it presents a case in point of a federal joint-organism antecedent to the articles, but also because the thing outlived them and exists to-day as the only unquestioned prototype of a common agency worked by the great commonwealth of North America. The provision for it in the articles is noteworthy for another reason, to wit: that it confines the exactions to rates "requisite to defray the expenses of said office." We think it cut off also, by implication, the great wrong now committed in the United States, that of running the Post-Office with annual deficits. In this matter, at least, the framers of the articles were the better political economists.

The "Committee of States" of Article IX., was patterned after the Swiss method, but spoiled by making it an entirely legislative creature. It was, therefore, not even that inherently weak thing, a "legislative executive." Had a clear executive branch existed and such a committee would have been, during the recess of Congress, a useful adjunct to the continuity of legislative supervision over the President and his Cabinet. Similar bodies are usefully employed in the continental states of Europe. England has them in the form of confidential consultations with the leaders of "Her Majesty's Opposition." It would be well if our Congress were to elect annually such a committee to act for it during recess.

We must not forget to mention that the articles provided for no permanent seat of government; Congress had power "to adjourn from place to place." This also was copied from Switzerland, that had, up to 1850, four capitals, with stated

alternate sessions. We may, indeed say, that migratory governments, or rather administrations, are more congenial to federal unions than fixed capitals. Germany adhered to this idea for a long time. The king of England's justice was for centuries administered during royal journeys; and in America the early courts performed their labors (following popular phrase) "chiefly on horseback." The "old folks" that have come down to us under the name of *Anglo-Saxons*, had, any way, the sturdy idea that government should come to them, not they to it; and the same view was, in a modified form, in Jefferson's mind when he penned the fourth and nineteenth accusation against the king in the Declaration of Independence. A London or a Paris as the centre of politics, of society, and of public and private manners and morals, was an obnoxious thought to the fathers. *Their* liberties died, as they thought, in such places; they lived best in the primeval forests.

Article XI. contains also *two*, in our opinion, very essential ideas: first, the one that the original union compact should state distinctly what states may join the Union on equal terms with the uniting states;<sup>1</sup> and second, that states not taken into view when the Union was formed should have to seek admission upon more rigid conditions. The former idea is contained in the option given to Canada to join the Union at pleasure; the latter consists of the provision subjecting all other annexations to the consent of nine states (over two-thirds). What a blessing such a provision would have been to the United States if it had been in the Constitution of 1787.

Articles XII. and XIII. contain the pledges of good faith, but no provisions for enforcing them, except war. Such passages are at once the cheapest as well as the dearest clauses of inter-state treaties. They are always dear to those, who confide in them, cheap to those, who make them designedly for gaining grounds for future wrangling. We may know the value of the pledges by remembering that the very legislatures that made them, declined to amend the articles so as to perfect them.

And now a few words upon the crucial question, whether the framers of the articles were clear-headed federal jurists? That they were patriots, all agree; but their *federal* wisdom and virtue are, as we have seen, questioned by those who claim to speak by authority. But we allow ourselves to say that the

<sup>1</sup> Robert von Mohl, the first political scientist who subjected the constitution of America, 1787, to objective reasoning, said in 1842: "Whether it would not have been better if the United States had in the very beginning fixed by law the extreme frontiers of their territorial extension? is a question which was never asked, as it should have been." Professor Mohl evidently did not know the provisions of the Articles on this point.



“authority” acted in this case from prejudice and not from sound judgment. We think we have reached a correcter conclusion, to wit: that in many things they were more logical in their federalism than their successors, but in others less so. And we think we commit no injustice to them to assert, that they were more versed in British jurisprudence than they were in federal law. Had they been more expert comparative jurists and historic reasoners, and with their deep love of country, they would have made a much better work.

Then they would have avoided the “*Liberum Veto*” on all amendments to the articles by any *one* state: that was the rock on which poor Poland split; its “*nie potzwalam*.” The power of levying duties on imports would have been granted in 1783, if even a majority of three-fourths had been required for passing an amendment. As it was, Rhode Island, the little marplot of the American family, defeated the provision. Fortunately that state claimed no lands in the west, or else it would have prevented also the settlement of the land question in 1787. Had there been, in the articles, a power to amend by a majority of two-thirds of the states; and by 1800 the articles would have been as perfect a constitution as the world ever saw. They would have had all the rigidity which a fundamental regulating rule should have, and at the same time the flexibility, that is, the glory, of the British Constitution. We are not sure, but what, similar to the Constitution of 1787, one or more points may be reserved for an absolute single state veto—such, for instance, as representation; but we incline to the belief that even for such vital points a majority of three-fourths is a sufficient safeguard. Such a three-fourth vote can only be obtained after long and patient discussion, and for overweening reasons. And when such a collective public will is formed, obedience to it is always safer and wiser than resistance. A society like that of America may eventually require some absolute rules; but at the time of the revolution, and for a long period following it, yea, even to-day, considerable freedom to grow and to develop, is its most wholesome mode of progression.

True then, is, as we think, the remark of a modern federal jurist, C. Frantz, of Berlin, that “federal constitutions are the highest form of human organizatory intelligence, when states, ethically inclined, construct them; but that it takes master workmen to frame them.” Hamilton must have felt something like this when he wrote: “A nation without a national government is an awful spectacle. The establishment of a constitution in time of profound peace, by the voluntary consent of a whole

people, is a prodigy to the completion of which I look forward with trembling anxiety."

Mr. Hamilton co-operated with the Union, when it was a mere league for warlike offensive and defensive purposes. He saw the slow development of the higher ethical germs, and these again fructified by events; but the growth was too slow for him. As aide-de-camp of Washington he knew the pains his commander had to undergo, because the confederation was not up to the situation. He multiplied his political wishes with his military desires, and lost the patience which is the first virtue in a leader in federal affairs. He wrote, therefore, with faint hopes the lines quoted, when about to meet with the convention called for the formation of the Constitution of 1787. We respect his feelings, but must deprecate his temper. It made him disposed to take often two steps at once in politics, and not always strictly correct ones. He panted for a nation and for national forms of government before the people were habituated to ethical reasoning and acting. And this made him the long-stepped brother among a body of short-stepped brethren, so that he was almost always alone. It would have been better for him and them if he had had more equanimity.

## CHAPTER VI.

## THE ORDINANCE OF 1787.

“Too much liberty ends in great servitudes.”—*Old Gallic Proverb.*

LIBERTY, eternal liberty, was sincerely the object of those who framed this ordinance, and they initiated a government which they thought would secure this; but the river of time has flowed over it, and rendered most of its provisions obsolete. Whether Jefferson or Dean wrote it? is now almost immaterial to us; it is now but a historic link in the public life of America.

Why a state paper, that was to be a constitution, was called an ordinance? we have never seen explained. The kings of France used this word for their decrees, our municipal councils employ it for their regulations, but it is otherwise out of use. The paper speaks of itself as an “unalterable compact except by common consent.” The people for whom it was intended have given *that* consent, not indeed for alteration, but for oblivion; and have passed under their second constitution to the orders of the day; and that means, that society has seized the helm, and is directing as well as misdirecting its politics. The general point of a retrospect, to the origin of the ordinance, is the queer fact, that the Congress that passed it exercised for the territories, and eventually the new states, powers which it could not and would not have claimed over the old states. No authority whatever was conferred on Congress in the Articles of Confederation for any of the objects treated of in the ordinance. Indeed, the states could not give it and be consistent with their theory of state sovereignty. And thus entered, a government intended to be purely federal or inter-state, processes and methods for exercising jurisdictions that belong only to full states in and of themselves, from general philosophic reasoning, or the necessary relations of persons and things. And, queerer still, this remained unquestioned for sixty years!

One of the most pointed public documents of the period,

because initial to and explanatory of the public reasoning then going on, is the letter of instructions (1779) given by Maryland to its delegates in Congress as to the western territory. It says: "No policy except that founded on principles of justice is sound . . . all interests founded on local attachments and prejudices, and the avarice and ambition of individuals, are not real but supposed interests." It admits "that fear of immediate calamities has induced the weaker states to enter the Union," and it predicts "that when these causes cease to operate, they will embrace the first opportunity to assert their just rights." It accuses certain states "to have grasped the western lands from ambitious motives, and that they have not a shadow of right to the territories." It announces the often overlooked fact, that "cheaper western lands means depopulation and impoverishment to the eastern states, unless made up by foreign immigration;" . . . that "the consequence of a state in the scale of the confederate states would sink in pursuance of its losing its inhabitants." It foretells that "sub-confederacies—*imperium in imperio*—would grow out of states having the back country with which to organize infant states as allies to themselves, being based on identical institutions." And it lays down the rule that "the country, unsettled at the commencement of the revolutionary war, claimed by the British Crown, and ceded to it by the treaty of Paris, and wrested from the common enemy by the blood and treasure of the thirteen states, should be considered common property, subject to be parcelled out by Congress into free, convenient, and independent governments." The letter ends by instructing the delegates "not to agree to the articles without an ownership of the western lands for the Union."

It took until 1802, fifteen years after the passage of the ordinance, in which the subject was believed to be finally settled, before all the states had given their legal sanction to the right of the federal government to be the owners and sellers of the public lands surrendered by Great Britain. The power, to give these lands to the Union, as well as that, to accept and manage them, on trust or otherwise, was then and is now entirely constructive. At no time was there an agreement or confirmation, such as Article XIII. of the Articles of Confederation requires for a valid alteration of that instrument; and, as stated, there was never in it any clause authorizing the then Congress to act as proprietor or landlord of the territories. Neither did Congress possess any general legislative powers, unless having passed through a war, and claiming title to lands in pursuance of the treaty of peace, gave them. The states did no more than



relinquish title; they certainly could confer no power *singly* on the confederation, and we saw, that they did not do it *jointly*. Where, then, did Congress get authority to prescribe laws and institutions for an unborn people? There can be no answer, except, that it took it from precisely the same source where the king of Great Britain took his, to wit: a long-existing *legal fiction*. The fact is simply, that the English-educated lawyer got the upper hand of the federal jurist, and an inchoate civil government was constructed, that was based upon certain favorite ideas of the age, as to the best way of organizing human society. And we admit that, as far as it went, the work was well done; and this is the verdict of the society that was then and there initiated and has since been formed into states.

Franklin, who took up the subject (of the kind of primary government proper for the western settlements) in 1754, being a socialistic rather than a political thinker, never questioned the right of the British Crown to inaugurate new governments, and he accepted a royal charter or grant as the right form. His experience with the Quaker proprietors of Pennsylvania suggested to him, however, that there should be some general superior authority in America itself that could overrule special selfishness or desires based on local interests. That authority he sought to create in proposing (1754) the general union. According to it there were to be two western sub-colonies, because, as he said, "one colony is not strong enough by itself, it could extend its settlements only inch by inch; but two, and they united under a general government, with a military president and a council of state, might by joint strength form new colonies, as common interests might appear to make necessary and proper." The heads of the colonies were to be "persons out of the nobility and gentry of England," but "every actual settler should receive gratis a right to — acres of land, and an equal number for each head in his family; but every one paying into the colonial treasury — guineas was to be entitled to a number of acres equal to that given to the actual settler." The settlers' (*per capita* land) quota was to be the measure of the buying capacity of the guinea, which is a unique balancing of the rights of labor and capital. Evidently Franklin's idea was, that settlers, who are under an overwhelming necessity to create wealth and to found homes, would work themselves, of themselves, into an organic society; and he said as much, when he justified the free self-government which his plan contained, by suggesting that "young societies might be allowed a degree of freedom which might prove incompatible with greater populousness and power." This conception of society growing into government from social

necessities, showed Franklin's deep understanding of American society. His desire for a union government, as a counterpoise to local selfishness, deserves particular attention.

Franklin had nothing to do with the Ordinance of 1787; it was written, while he was absent in Paris. Its authors were men who were by education patent constitutionalists, though in their hearts they were opposed to all fastening down of social developments. We had their ideas and ways last again, in Douglass's notorious proviso in 1854, "subject always to the constitution of the United States." We all felt the emptiness of the clause as a rule for the territories, and its deceitfulness as a solution of the pending issues; but it sounded so full, and seemed so conclusive, that it stole public consent and kept it for some time. A similar provision existed in the ordinance, only it subjected (*sic*) the north-western territories to "the Articles of Confederation, and such alterations therein as shall be constitutionally made, and to all acts and ordinances of the United States in Congress assembled in conformity thereto."

The Union had now not only children, but also "subjects," and they had not only inalienable inborn, but also—mark it kind reader!—granted rights and imposed duties. Thus there were to be right-handed but also left-handed states—a voluntary "states union," that acted as if it were a "union state." And by 1861 the states made by Congress, led by Ohio, the firstborn of this "union state," enforced *vi et armis* the principles on which the Ordinance of 1787 was built over a lot of states, that dreamed themselves still to be in the legal relation of the original states union, and therefore thought, that as they had come in voluntarily they might go without asking leave. They seemed never to have known, or had forgotten, that their fathers wrote into the Ordinance of 1787 these words: "The territory and states which may be formed therein shall for ever remain a part of this confederacy of the United States of America." The children-states had thus grown into the correctors of the parent-states. The subjects had become the masters. History ever repeats itself.

No one would, on reading the Ordinance of 1787, ever suspect that the men who drafted it were strict constructionists, or that they ever held the principle of non-interference with the domestic concerns of the states; for the ordinance regulates, beside the law of descend and dower, also that of wills, deeds, leases, &c. Yet it exempts from these rules "the laws and customs of the French and Canadian inhabitants settled therein by consent of Virginia." It also organizes government before there was a society; assumes for Congress the right to appoint

governors; requires property qualification; establishes courts and authorizes the judges and governor to "adopt and publish such laws of the original states (criminal and civil) as may be necessary and suitable to the then social conditions," and they are "to be in force until the territorial legislature meets, or Congress rejects them." The ordinance clinches the *subject* relation by readopting, in new form, the rule in the old royal charters in these words: "The General Assembly shall have authority to make laws in all cases for the government of the territory, not repugnant to the principles and articles in this ordinance established and declared." The superiority of settled over unsettled society, and the consequent right to prescribe government, could not be more positively asserted. It is the only basis for the right of the then Congress to pass the ordinance. Mind, however, that the West has by an unbroken series of acts protested against this doctrine, and has, indeed, reversed it. And whenever or wherever the West meets the East, it lets it be understood that it holds that unsettled society makes better laws than settled society. We cannot now re-discuss this point, but must say that the assertion is true only in a very limited sense.

The Ordinance of 1787 consists of two distinct parts: first, the *organizational*, of which we have so far mainly spoken; second, the *declaratory* and *prohibitory*, of which we will now speak. It declares its own object to be: "To extend the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws, constitutions, are erected, and to fix and establish those principles as the basis of all laws, constitutions, and governments; to provide also for the establishment of states and permanent governments therein." Let us see what these principles are.

I. No molestation of persons for religious sentiments and worship.

II. The writ of *habeas corpus*; trial by jury; proportionate representation of the people in the legislature; judicial proceedings according to the course of common law; bail for all offences, excepting capital crimes; moderate fines; no cruel or unusual punishments; no deprivation of liberty or property, but by the judgment of peers or the law of the land; compensation for services or property taken for public purposes; no interference with *bond fide* private contracts.

III. Schools for educating in religion, morals, and knowledge; good faith with the Indians as to their land and property, which are not to be taken without their consent, unless (*sic!*) in just and lawful wars authorized by Congress.

IV. The new states to be for ever parts of the federal union ; no interference with congressional disposition of the soil ; no higher tax on non-resident than on resident owners ; the freedom of all navigable waters ; free from all taxes, imposts, or duties.

V. The definition by metes and bounds of the new states to be formed ; and their constitutions to be republican, in conformity with the principles laid down in the articles of the ordinance, and consistent with the general interest of the confederacy.

VI. No slavery in the territories or states, but surrender of fugitive slaves to the owner.

The spirit that made the framers of the ordinance declare that these provisions shall "for ever remain unalterable except by common consent" is the same as that which made Roman law-writers give perpetual sanctity to *Leges patriæ optime instituti*. It was also identical with that which inspired the Church to declare its canons and doctrines to be "divine law." The Romans, the Church, and the fathers were actuated by deep and sincere convictions ; but we are nevertheless justified to criticise their work and to expose their several inconsistencies.

They and their laws were, each and all, themselves the product of time, and yet they wanted to stop time from running for future generations. They could all see that their very present orthodoxy was heresy but a little while before. How, then, could they expect that human society would not go again beyond *their* tenets ? Not religious worship and sentiment alone changes, but political doctrines and practices also. We may show this as to some of the rules quoted from the ordinance. For instance, judicial proceedings are now no longer, in America, according to the course of the common law ; the writ of *habeas corpus*, trial by jury, and judgment of peers, are no longer regarded as the essential safeguards they once were ; and by far the greater part of the remaining legal rules and political regulations of the ordinance are now obsolete, whilst other guarantees, not thought of in 1787, are still sadly wanted. Admit, then, the integrity that made them indite what they thought eternal truth ; still it is nevertheless proper, and it serves a useful purpose, to show that neither the Roman jurists, nor the clerical canonists, nor the American constitutionalists have been able to stop future generations from inquiring into and setting aside the dicta of those that preceded them.

Requiring judicial proceedings to be conducted according to the common law was certainly an incorrect act ; and it would have



been no better if the common law itself, or any other order as to persons or things, had been prescribed. The reasons given by Blackstone why the common law had no authority in the American colonies—vol. i. star-page 108—are right in themselves; they apply to all law-transcribing for unborn society. The common law was then already under judicial re-inquiry in England itself, and threatened with the abrogation which has since taken effect there and here. Blackstone lays down the true principle when he says: "Colonists carry with them only so much English law as is applicable to their own situation. What shall be admitted and what rejected, at what times and under what restrictions, must, in case of dispute, be decided in the first instance by their own provincial judicature." We would, resting on this passage from the great British jurist, ask: Whether imposing on a territory the common or statute law of any other land is not a denial of the right to develop the common or statute law of their own society? The settlers of our west did not come without laws; no! they carried many with them; and it was only a question which should be the law there, and which should be dropped. They had, moreover, the sense of the necessity of law and order; for they came from a civilized society, and were for that reason superior beings to their predecessors the Indians. And in that fact lies the criterion for the value of all immigration and its benefit to the new country—if from a higher organized society it elevates the order of persons and things in the new country. That being the fact as to the western settlers, it justified their coming; but it did not justify prescribing for them, for all time to come, any presumed "fundamental principles of civil and religious liberty." The new settlers supplied a populatory want of the west; they and their necessities were the true "law of the land."

We may be told that the ordinance hindered free law-development very little, and we admit this unreservedly. We concede, indeed, that the prohibitory clauses did much good. But does that excuse the panegyrics that have been heaped upon it? Does it not rather demand of us a more careful examination of the causes, why the probable evils were less than they might have been, and the good greater than could have been expected? And with this view, it must first be noted, that the settlers paid very little attention to the details of the ordinance. Most of its provisions were accepted as a matter of course; but so far as they conflicted with their ideas and purposes, they made strenuous efforts to rid themselves of them. The transition of the federal government from the Articles of the Con-

federation to the new constitution facilitated this very much, since the ordinance was really drawn for the former, and the new authorities needed some time to find themselves to rights in their new quarters. Both the territories and the old states were (if the figure of speech is allowable) wearing shop-made clothes! In the next place, it must be understood that the ordinance was largely *negative* legislation, and so far more likely to be right and useful than would have been the case if it had been mainly *positive* law-making. The ordinance exemplified in this but a fact observable in all human history; to wit: that negations of ascertained errors and wrongs are the milestones of progress, while affirmations of believed truths are generally steps backward in the life of states. The maxim of Zoroaster, "To live well we must abstain from those things which we consider as reprehensible in others," has had much more practical value than Christ's rule, "Love your enemies." All of us know, in and of ourselves, how much easier it is to avoid an observed fault than to carry out a good resolve. It was so with the ordinance; the prohibition of slavery and of religious persecution was an unmitigated benefit, while the *imposed* governors, &c., were nearly useless. The federal courts, not named in the ordinance, as they did not then exist, were the best of the instruments instituted for the territories; they did what Blackstone pointed out as the work to be done.

Had the framers of the ordinance approached their task with this understanding more fully than they did (they had it largely, as we have seen) they would have made *absolute* rights of property much less the foundation of their real estate regulations than they did. They would also have guarded against the waste of timber, the curse of the old and the new states. They would have connected with the disposition of the public lands, a wise provision for roads and highways. In fact, we must say it, high as we think of the fathers, they were not as keen in the detection of the embryo malformations of American society as they were of the wrongs of that of Europe. They were kept from seeing the first, because the hot and free pursuit of wealth, which distinguishes America from Europe, was producing here a teeming prosperity; and they believed it therefore to be their first duty, not only to place no curb upon it, nor even to attempt to direct it; but to foster it and provide it with facilities. They allowed, nay, they encouraged, not a landed *aristocracy*—for that would be an abuse of this much-misapplied word—but a body of landed speculators, that levied tribute on all who came after them, and produced that steady decline in the ratio of progressive develop-

ment, which is the politico-economic puzzle of those who reflect on the social evolutions of western society. And this brings us to the chief defect of the framers of the ordinance, viz.: they were not definitely conscious of the great idea, that lay in their own provisions for schools and the means of instruction, and did not understand that providing constant opportunities for an equal start in life was the legitimate function of government, and its best work in counteracting the inequalities and oppressions which are ever generated by the individual pursuits of happiness in society.

If, however, it is assumed that positive legislation was necessary because nobody else could take the initiative, and that Congress was, as proprietor, the proper body for this purpose, then the public lands gave the basis for all such action; for Congress was by common consent the organ for their disposition and settlement; it could fix the price, the tenure, and the uses to which the money received should be applied. *More* than a mere "*primary* disposal of the soil" was therefore clearly implied, both in the pains taken to get these lands from the states and to transfer them to the Union, as well as the proprietary relation thereby created. It was well enough understood, that they might be and should be used as means for securing, to *all, ever fresh opportunities for the acquisition and production of wealth*. Was it not then a very narrow view to throw the lands rapidly on the market for purchasers that would hold them for profit? Should not a price have been asked: fair to the actual settler and open only to him? And should not that price have covered provisions for schools, roads, canals, and public buildings? Why indite a government and regulate judicial proceedings, as well as prescribe rules on inheritances, dower, &c., but not provide things of *primary necessity*, such as those named? Was not the land necessarily the basis of the coming society? The ordinance policy meant to the new-comer and actual settlers the absorption of the money paid for the lands by the federal treasury, and irksome taxation as well as spoliation by the land speculators; while the right course would have been to have used the lands by asking a good price from the settler, payable in long yearly instalments, and use the proceeds for creating an *ever-freshly-freed* society. Why use doubtful powers and pursue shadowy ways, when unquestionable authority, for the realities of life, was ready to their hand?

Franklin's land plan was meagre enough, but it had, at least, provision for military purposes, such as ammunition, &c., as protection against the Indians. And the "guineas" of the

land purchaser were to be used for that object, while the actual settler was the *bodily* basis of military operations. The ordinance spent its force in trivialities for such as that inevitable nonentity of American institutions, a *governor*, who is to be commander-in-chief (*sic!*) of the militia and to commission (*sic!* again) all officers, &c. In neither of the two programmes are roads mentioned, nor were there any provisions for any well-organized public administration, or, as we call it, a "civil service." Both seemed to have an abiding confidence in the capacity of the settlers to help themselves to everything not inserted in the written plans; and this confidence would be charming, if it were not spoiled in the ordinance by the passages about the writ of *habeas corpus*, trial by jury, judgment by peers, the common law, the governational figure-head, and other things too numerous to mention, that showed that the better confidence was *not* there. No wonder that the settler, when he found himself supplied with these mere paraphernalia, got the notion that he might as well look to the central power for the substantial things also, such as United States troops against the Indians, appropriations of money for manifold purposes, and especially profitable public offices. And equally natural was it, that since the wealth produced inured chiefly to the landholders (for a rise), the state governments should fall as to public improvements, either to public borrowing or to corporations with doubtful virtue, and that it all ended in a general misdistribution of the new country's wealth. Millions thereof went to the creation of social inequality and oppression.

Ninety-three years have passed since the ordinance was written, and the phrase passes from lip to lip: *What changes?* Let us run some that are never mentioned over in our mind. The Articles of Confederation, under whose auspices the ordinance was born, and which were to be the eternal fundamental rule, are dead. The Constitution of 1787, not named in the ordinance, and yet its law, has its fifteen amendments. All the states of the north-west territory have their second state constitutions; Ohio came near having its third! Nearly every township is more emigrated from than they are immigrated into; over 400 out of 1280 townships in Ohio have actually receded in population between 1860 and 1870! The tillage of our farms is still soil-pillage. Our forests are being more and more denuded. We still kill private credit with amazing persistence, and are abusing public credit with audacious levity! Our elections are games of grab between demagogues; statesmen are either retired or discounted; our press is venal; our schools



are full of scandal and intrigue, and our academies and universities disjointed as to mental culture. We have plenty of pietistic formula, and but little religion. Our pulpit orators and public lecturers are only flatterers, because they know that that is the way to our pockets and votes. We have in Ohio 4500 pages of statutes; hundreds of courts to grind out law for us; and thousands of lawyers to defend and offend us therein. We ask: Is property or person secure with us? Have we any protection against the abuses of the taxing power? Have we a proper public economy? Who rules us? Are not bad men our governors? Does the inchoate or the matured public will reign in this land of ours? Who is freest in the country—the wicked or the good? We will not ask further; we have perhaps asked too much already; and we know of no better answer to our queries than the Roman adage, that expresses in four words the whole change that has been effected—“*Pessimæ Republicæ plurimæ leges.*”

Do we recite all this to blame the ordinance for it? By no means. Our object was to tone down vaingloriousness and to teach a valuable political lesson. It is, that a society all eager to be rich, and not only in flow, but under blast of inter-social strife, cannot be incased in institutions prescribed by theory or political doctrine. The clothes of parent societies are either too large or too small for their offspring. Neither religious zeal for antiquated morals, nor political partisanism for obsolete rules, nor any new aspiration for reform in church and state, that rests for its facts on old society, can furnish the permanent institutions of new bodies politic. The ethics of a community, to be fit for it, must be the product of its own properly matured, collective public will. And it must embody the historic causes in the present wants as well as the future needs of a people, as far as they are ascertainable. In brief, the action, interaction, and reaction of every society upon itself, furnishes the factors of the life of a people. The ordinance was good in all that related to ascertained wrong, but the action of Congress, both in the confederation and in the new union, was extremely defective as to the biggest of all realities in the territories, the *lands*. Hence we have had the all-pervading discords and drawbacks of land speculations, where we should have had the harmonizations and incitements to good laws and wholesome institutions. The true perennially fresh liberty of the new society was, therefore, never secured.

## CHAPTER VII.

## THE INTERVAL—1783 TO 1789.

“A people become a nation only after they have a consciousness of being a totality.”—*Dr. C. G. Carus.*

FRAMING constitutions was the mania of the eighteenth century; it still exists, but is dying out. We know of no people that were free from it; but it was ever strongest in America, and there it had the greatest variety of phases. Some wanted constitutions for elevating the lower strata in society, that had hitherto been too much repressed; others wanted them for imprinting on the body politic new principles of political science and social order; others again, as Poland for instance, were for them as means for extricating themselves from the mischief of their old constitutions; with the fewest they were instrumentalities for attaining national political consciousness and consistency.

The ancients knew no such want, in our modern sense. Their highest laws were *leges patriæ optime instituti*. These, men of genius, such as Moses, Zoroaster, Kai-Muni, Confucius, Solon, Lycurg, Sysostiris, Tertius Tullius, the Decemvirs, &c., either collated or originated. Nor had the Middle Ages such desires; they grew into their institutions through victorious lawlessness that, after victory, felt the necessity of political lawfulness for the social positions which they had conquered; and these feudal regulations are the notchings down of the sense of right that outlived their wild desires. Of them theology and jurisprudence kept separate tally-sheets; and as they neither agreed in nor corrected these, their reckonings, properly by scientific inquiries and rectifications, social and political science had to be called in and make something that should be above the laws of church and state, and the idea and the word for it we have in our modern “constitutions.”

When we shall understand who was opposing and who was promoting the formation of the Constitution of 1787, we will comprehend fully the importance of this law of inter and

counter action in American politics. We had here all the motives for constitutions that disturbed Europe; and that of the desire to prevent the loss of liberty in the pursuit of new wealth besides. The new constitution was not alone a supplement and correction of the Articles of Confederation, but also of state sovereignty run mad in several state constitutions. The struggle for independence had been fought under adulations to the states, which were paid to them so as to coax them into their utmost exertions for success. And when it was attained, state self-flattery took all the merits to itself. Thus it became necessary to ask the states to surrender some abuses of their power,—for instance, their wasteful land sales and their levying impost and transit duties. This was like the breaking of an old horse that had been badly broke as a colt. We will quote from some letters of the period to show the then prevailing conditions.

Washington wrote to Jay, August 1786: "Our affairs are hastening to a crisis; we have errors to correct, and have most likely had too high an opinion of human nature when we formed our union. Experience has taught us that measures calculated for the best happiness of men are not adopted nor carried out by them unless some enforcing power intervenes. I cannot see that we can long exist as a nation unless we establish an authority that can make itself energetically felt. The aversion to clothe Congress with adequate powers for national objects appears to me as the zenith of democratic folly and nonsense."

Jay then wrote to Madison: "It is time for our people to choose between freedom and anarchy; government without liberty, as well as liberty without government, is not a blessing, but a curse."

Jefferson wrote from Europe: "The reputation of America is, at this time, not flattering to its citizens. . . . We should ever bear in mind that loss of good name and war are the sequences of a want of attention to national character. As long as the states, each for itself, exercise the functions relating to foreign intercourse, there will be irregularities that will place us continually on a bad footing with foreign powers."

Henry Knox wrote to Washington: "The people here (Massachusetts) think that the property of the United States was, before England was ousted, and since, protected by the united exertions of all, and that it is therefore common property; and whoever opposes this belief is declared an enemy of justice and fairness, and that he should be swept from the face of the earth. They are determined to wipe out all debts, public and private, and to procure for themselves agrarian laws; and they think

that unfunded paper money, backed by legal tender acts, is the easy way to do this."

This has reference to Shay's rebellion, the attempted capture of the Springfield armory, and the plethoric issues of paper money.

Morris, a more sanguine character, wrote to Jay, January 1784: "It is true our general government lacks energy, but no less true that this fault will be remedied. A feeling of nationality is the natural fruit of a national existence, and even if the present generation shall adhere to colonial diversities, it will die out and make room for a race of Americans."

General Varnum, of Rhode Island, said of the House of Representatives of his state, in an address to the United States Convention, 1787: "Paper money is its idol, and to maintain it, founded as it is on fraud and oppression, they trod under foot the holiest obligations." The students, merchants, &c., of that state, said of that body: "The dregs of society alone sustain the House of Representatives; it is determined to maintain its ground, and to prevent, if possible, the collection of debts."

Duane, editor of the "Aurora;" Hamilton as correspondent of "The Continentalist;" General Schuyler as member of the Senate of New York; Robert Morris as superintendent of the federal finances, Palatiah and Noah Webster as essayists, Governor Bowdoin, Gerry, and not to forget Madison, contributed much towards shaping the better public mind.

How to induce the popular mind to question state sovereignty, and to see in it *one* of the sources of public evils, was the task before the men whose remarks we have quoted. And it was no more, no less, than to make the masses see that behind professed common interests were always lurking actual special interests. To see that, required, however, a much deeper self-inquiry than they were in the habit of making. They were used to think themselves all safe, if only the old Saxon method of following up the "folkgemote" by a "wittena-gemote" could be set in motion. And they believed this the more, because in modern convocations of the assembled wisdom of states there was no self-representation of great class interests. This was, at least, the rule in America. Here there might be local interests, but even they should be public interests. The law of *mutatis mutandis*, the nemesis of all political organizations, which always produces forces from within for the overthrow of institutions in which any great interests are neglected, or worse yet, attempted to be suppressed, they believed themselves exempted from; because they had republics in their states, and thought them to be the perpetual fountains of liberty. That great social interests, such as ambitious men combining



for personal success into political parties, or persons coveting riches either in open individual commercial pursuits, or through corporations, or job and place hunters, would, yea had already, built their nests for nursing oppressions in these republics, was hid from them. They looked—having thrown off Great Britain, its king, nobility, priesthood, and wealth—only to a consolidated central government as the great danger to their liberties. To persuade them out of this, and to allow state concupiscence to be checked and counteracted, was the true object of the movements for a new federal constitution between 1780–87.

New York, mark it!—the state with the city having the largest commercial intercourse both at home and abroad—was the most advanced in political sagacity. It took the lead in July 1782, by declaring to the sister states: “This important end (a better constitution) can never be attained by partial deliberations of the states separately. It is essential to the common welfare that there should be, as soon as possible, a conference of the whole on the subject. . . . It would be advisable, for this purpose, for Congress to recommend to each state to adopt the measure of assembling a general convention of the states specially authorized to revise and amend the confederation, reserving a right to the respective legislatures to ratify their action.”

The indirectness of this proposal is plainly visible. Was not Congress a conference of the whole? Was it not, in all except name, a convention authorized to revise and amend the confederation? Could it not propose, and the states ratify, all amendments? Why, then, a roundabout way? Why thread a new needle where one was already threaded? The answer is easy, if disagreeable. It was necessary; because the people of the United States then, as ever, had to be humored into doing right, and would not have done it without being humored. That suggestion was neither the first nor the last time that our public was brought into new things by leading it away from an old normal direct way into a side path. Their British forefathers had been so led, often into changes in church and state; and the process has since been frequently repeated, the last instance being the electoral commission in 1877. The plan of New York in 1782 was too square a proposition, however, for immediate adoption. It was shelved temporarily, but eventually became the approved method for changing the constitution.

The necessity of thus humoring the public mind involved a loss of five precious years to America. The men who had at last to lead in the final movement—Washington, Franklin, Knox, Jefferson, Madison, Hamilton, Randolph, Roger Sherman, Livingston, Dayton, Dickinson, Mr. Henry Rutledge, Pinkney,

Rufus King, and others—were in 1782, one and all ready for the service.<sup>1</sup> Why not send them to Congress? They were younger and fresher than they were ever afterwards. The faults of the articles were known, as the debates in Congress and various public reports show. Why wait six years to do that which, to be well done, had best be done at once? Why adopt extraneous proceedings? Why not use the threaded needle? Why thread a new one? There can be no answer to these queries, except the one, that the public mind, though professing to be national, was not yet conscious of being a totality, and it could not get that consciousness with a Congress that stood in their minds only as a multiple personification of state sovereignty. It took a new body that would embody the embryo national sentiment and carry it through the necessary processes of gestation to national personification. State pride, local tergiversation, and an inferior public will, had to be worked into a superior public will, with the consent of a people that did not know its own mind. The loss of precious time, especially that of six years of national administration by Washington, when he was still in the prime of life, was a severe deprivation, and so was the putting off of the re-entry of Franklin into home public life until too late on account of age; but it had to be borne, as the people could not be moved at the right time.

Patience with the public mind seems to have been an imperative duty with the great men who had to prepare it for an advance step in the perfection of American institutions. The people were then, as now, easily alarmed at every proposition for a change of their fundamental law. It is always so when a society persuades itself that it is free *per se*. It is, of course, ever reminded by events that this is not so, but these events are charged as errors in government. Demagogues are never wanting at such times (they were on hand then) to take advantage of such a chaotic popular mind, and to raise scruples against honest purposes, and to blind the public eye as to their own wicked designs. A body like the old Congress was specially open to such attacks. It had, during the war, again and again

<sup>1</sup> The mention of these names, and their absence from the political field, that is to say, from the spheres in which the institutions and their organisms were formed, suggests the general fact that large portions of the lives of the best public and private men is spent in retracy from active work. Of Washington's life twelve years were lost; of Adams', twenty-four; of Knox's, twelve; of Jefferson's, sixteen; of Madison's, eighteen; of Jackson's, twelve. Most merchants and manufacturers, as well as lawyers, withdraw early from business. Is there too great a strain on human energies here? Or is there in men's constitutions an enervation? Or do the young push out the old more rapidly than elsewhere? Or have we political idiosyncrasies that make us look upon retired great men with pleasure?

to appeal to the latent patriotism of the people, and to rebuke scamps who were stumbling-blocks to a full development of the country's strength. Its best members were, for that reason, more or less unpopular, and their proposals generally fell dead-born as soon as brought forward. There were also, as might be expected, ambitious men anxious to take their places, and they would look with hope to any change of programme. Hence the proposition of New York met with support enough not to allow it to be killed, but not with enough to secure its immediate adoption. It had to win its way slowly by its intrinsic merits. Other plans had to be tried and prove failures, and then the public mind would naturally recall the measure, and finally adopt it with some modifications.

Virginia made the first move afterwards (November 1785), and renewed it January 1786. It proposed "the appointment of commissioners by the states to meet at a place and time to be agreed upon, to take into consideration the trade of the United States, to consider how far a uniform system of commercial relations of the states may be necessary to their common interests and their permanent harmony."

A body of commissioners met accordingly at Annapolis, September 1786, but only five states were represented, and it soon became evident that the movement fell on the one side short of the wishes of the true friends of a better government, and that on the other it exceeded the views of those who were really insincere. Washington kept aloof from it, as he and his friends did not approve the ignoring of Congress altogether. John Dickinson, the draftsman of "the articles," was chairman, and it seemed improper that he should lead in setting them unceremoniously aside; so they agreed to recommend the appointment of more commissioners, and to adjourn to Philadelphia for May 1787. The then completed body was "to take into consideration the situation of the United States; to devise such further provisions as should appear to them necessary to render the constitution of the federal government adequate to the exigencies of the Union." They reported their proceedings to Congress as well as the states, and thus found their way back to legitimacy, just as their British forefathers had repeatedly done when illegitimate dynasties had installed themselves in power. It is interesting to read in this connection Blackstone's homilies on the British capacity to land always finally in legitimacy after straying into illegitimacies.

Congress now took the matter out of the hands of the commissioners, and shaped things more in accordance with the Articles of Confederation. It passed a "whereas" and resolution

in which "the right of making alterations therein was the premise, but the suggestions of New York for a constituent convention furnished the occasion and the mode. The whole thing was, however, to be a "*revision*" of the articles, not a *new* constitution, and it was to be submitted to Congress and the states as prescribed by the articles. The states now added their sovereign (?) sanction, and in May 1787 the Convention met, and completed their labors September 17 following. Washington, the personified union, was its president, and he reported the new constitution to Congress with a very ingenious letter.

In *it* we meet for the first time one of the *latent* reasons why an entire remodelling was deemed necessary, to wit: that there "was an impropriety in delegating to *one* body of men such extensive trusts as the power of making war and peace and treaties, that of levying money and regulating commerce, and the correspondent executive and judicial authorities." This very adroit but rather unkind way of stating to Congress that its being but a single body was the main objection to the articles, was passed over in dignified silence by that assembly. It might have used as *argumentum ad hominem* Washington's circular letter of May 1783, in which he wrote: "The system (articles) came from the assembled wisdom and the best heads of the whole country, and if not perfect, is the best now possible." It might also have recalled to mind the Roman Senate, the safest depository of power the world ever knew. But the Congress was not disposed to expose, but rather to veil infirmities. It took, like Shem and Japhet did for Noah their father, the new constitution as a garment for covering the country's political nakedness.

Washington speaks in the same letter of "the impracticability to secure all rights of independent sovereignty to each state in a federal government, and yet provide for the interest and safety of all." How near was this expression to the true conception!—viz.: that the independence, safety, and interest of *all* is perfect only when united in a national government—and yet how wide of it also! It was followed by the remark: "Individuals entering into society must give up a share of liberty to preserve the rest, and the magnitude of the sacrifice must depend as well on situation and circumstance, as on the object to be attained. It is at all times difficult to draw with precision the line between those rights which must be surrendered and those which must be reserved; and on the present occasion this difficulty was increased by a difference among the several states as to their situation, extent, habits, and par-



ticular interests." Modern science takes very different ground. It informs us, that there is no need of any surrender of any right to a good government; that it is only a change from a valueless wild liberty to a valuable civil freedom; and that by it all have greater security and more strength, as well as liberty. New Hampshire expressed the true view in 1787, when it said: "The object of the Union is to avert the dangers which threaten our existence as a free and independent people." The United States were long troubled by the phantom that the states surrendered some of their freedom to the general government. This misconception was always in the way of a cordial union and a perfect organization of the government; and to-day it prevents the adoption of many measures which would benefit the country and enhance its freedom and welfare.

A union adequate to exigencies, to the actual situation, to future good government, to independence and freedom, is the one true figure which the advocates of the new constitution should have advanced. They should have left to the delegates assembled in the legislature the other figure—that of the members standing with scales and weights and measures in their hand, "to draw with precision the line between rights surrendered and rights reserved." The thing actually to be performed was to create an organism by which every right and every interest is to be enhanced; none to be surrendered, none to be specially reserved. It was the same identical society that was the object and subject of every species of government established within it. The states and their people were precisely as much represented in the Convention and the Congress as they were in the legislatures. And we make bold to say, that if it were true that the erection of a federal government involved the loss of any real freedom, and involved therefore a more precarious future, it was treachery to create it, not patriotism. Montesquieu was the unconscious originator of this fallacious theory, by saying, book xiii. chap. i.: "The revenues of a state are a portion that each subject gives of his property, in order to secure or to have the agreeable enjoyment of the remainder." Now, it is far oftener true that taxes and assessments are paid for benefits corresponding fully to the amount paid. Indeed, it must be stated that no state has the right to take from its citizens any money for any object that does not inure to the advantage of all, including especially the taxpayer. It is so also with a union.

No wonder the states hesitated in ratifying a constitution that was represented to them as an instrument, where some of their liberties would lie buried. We would like to see a list of them. Was it in the military department? or in the post-

office? or in the public lands? or in the judiciary? The Congress, that lost its very existence by it, saw none, for it recommended it to the states for adoption. By September 13, 1788, eleven states had ratified it, and the Congress, that was still bound by the articles, put itself under the new constitution, and declared its provisions the law of the land. Thus the doctrine was sanctioned that a fundamental law can be set aside by improvising a constituent assembly, and that the new law becomes the rule for the old government before it is adopted. Franklin's fiction of a snake with two heads sticking fast in the forks of a tree as an exemplification of a legislature composed of two bodies, had now changed into an actual living snake illustration; for the Congress had done, what no other beings than snakes have ever done; to wit: it jumped out of its own skin and left it callously behind for the new garment. When, in 1861, the southern states essayed a repetition of this experiment, they did not find an equally complacent Congress. On the contrary, they were held to the rule that a constitution can be abrogated or amended only in pursuance of its own provisions. Or as Lincoln expressed it, "A legal wrong can never become a legal right simply by a change of form." Prussia took the correcter ground in 1865, that war between states, embraced in a union, ended the federal compact, and that it requires a new agreement to renew it. But even that doctrine was repudiated here; indeed, the contrary was acted on in 1865-66.

Evidently American constitutionalism has been roughly handled both in its infancy and now in its decrepitude. And the reason seems to us to be, that it has, like all our politics, been built on theories that do not stand the test of time. The constitutions, which we have made, lack logical cast and inner consistency and coherency. South Carolina wanted in 1787 an instrument that had "adequacy to exigencies, to actual situations, and the certainty of future good government." "Time alone, the wisest thing on earth," can impart this, though a genius like Solon may approach it very near in a single effort. All our constitutions were in themselves amendable, but it is queer that this power has seldom, if ever, been used for any practical purpose. An inner sense seems to say to us that constitutions must be not only the product of the consciousness of a people that they are a totality; but that the constitution itself must be a totality; that is to say, it must be a logical entirety. Amendments to written constitutions are therefore seldom improvements and nearly always impairments. And as there are both more expeditious as well as cheaper and safer ways than constitutional conventions, it is to be hoped that these ways will

be re-inquired into, and we be saved, after this, the miserable condition of a people bound up in the equivocal attitude of ever swearing to constitutions and ever violating them.

In conclusion of this chapter we venture to ask: whether our wise men have not, by their prejudices, been kept from the true conception; to wit: *One* constitution, in which the rightful relations of all our several public organs to each other and of all to society are worked out? Are not our municipalities, our states, our federal authorities, parts of *one* general organized thing? And is it not just as absurd to have special city charters, separate state constitutions, some thirty-five in number, and a general one besides, as it would be to have a separate soul for every member of the human body? We know, that the time will come when this suggestion of ours will be received; and then, we predict, the one general constitution will be taken up, not as a thing to be framed, but as a thing then in existence, dispersed as it may be in judicial decisions, legal enactments, in our written constitutions, and of course also in the state papers of our statesmen, but still capable of being collated into one American code. We had, in the past, constitutional conventions, because the materials for finding our true constitution were still too meagre; but we shall hereafter have public organs, perhaps single persons, who, standing in their own integrity, learning, and capacity, will, using Lord Mansfield's words: "Work out laws pure by rules drawn from the fountain of justice." It was, if a homely figure of speech be here allowable, not a cistern that was wanted in 1780-87, but a living stream.

Such a constitutional summary or *unal* code for all the relations of the Union Government to its branches, to the states, the municipalities, and they to each other, would, if offered in 1780-87, have been misrepresented as a close consolidation, by those, whose desires as to a federal government were that it should be a sort of free-love affair, in which the states, or rather their dominant parties, were to play the incontinent males, and the federal authorities were to be the spiritual wives. On the other hand, it would have been misunderstood, as too close a unity, by those who sincerely desired distinctness in the several spheres of the respective public organs. The latter alone would have deserved an explanation, and it would be no other than to bring before them the point, that states-rights would not have been hurt but benefited by stating them in definite terms, and that all the relations, federal, state, municipal, and personal, would certainly have been safer by being well defined and grouped in one general constitution, than they

were when scattered over dozens of constitutions. We may be allowed to add, that after a careful study of the several expressions of the ideas by the Fathers, we are satisfied that they all felt the want of such a definite statement; that Hamilton came nearest in attempting it, for he wanted the governors of the states provided for in his outline of federal institutions; but that all made some approach to it, some as to taxation, but most of them only with vague notions. The best provisions of the Constitution of 1787 are to-day the definitions of the respective spheres; the worst defects are those, in which this was neglected or missed; and the ten amendments are good only so far as they made clear that, which without them was obscure. Yea, we would ask, in what other good sense are the resolutions of '98 useful than in that of defining more clearly federal relations?

In fact, it must be recalled to mind, that the same impulse was in Franklin's mind, when he penned his union plan in 1754, as well as his first draft of the Articles of Confederation in 1774. It was also present in the deliberations of the committee charged with drawing up the Articles of Confederation, that met July 12, 1876. Its deliberations are reported in vol. i., "*Jefferson's Correspondence*," pages 22-29, and they show how inevitable it is in all discussions on federal constitutions, that every conceivable bearing thereon, from all parts interested therein, be taken into account. Indeed, we assert, that only those can be qualified to frame such institutions in whose mind the entirety and all its parts are present in detail and unity. What else, we would inquire, than this idea is there in the guarantee of "*republican governments*" to the states in the Constitution of 1787? Such a provision was early proposed, and always advocated as indispensable to the symmetry and consistency of the general government. And coming down to after events, we find the same tendency, however latent and indefinite it may have been, in Washington's addresses and messages, especially his farewell address; also in Jefferson's inaugural address (the Resolutions of '98 were mentioned), in all of Madison's state papers, in Kent's "*Commentaries*," in Story's "*Constitution*," in Walker's "*American Law*," and Jackson's farewell address, as well as his previous messages and vetoes. It was often only the instinct of an indefinite want; but nevertheless a strong want; and we may say in general terms, that it was the very thing which, however misshaped it was, often really constituted the best of the politics of Webster, Clay, Seward, Chase, and especially Lincoln. *One* constitution has lain inert in all minds; it is a pity that it never found a



definite form. Had it been adopted from the first, and the mystifications between "sovereignty" and "supreme law;" between reserved and granted powers; between a federal government as an integral part of ourselves and a states shadow; between an anti-federal and pro-federal public spirit; between loyalty to the union and fealty to the states, could never have ripened into the rankness that always embittered, and often endangered, our public life. They grew on constitutional multiples; they must have faded and perished, if at all times we had had but *one* constitution.

## CHAPTER VIII.

*THE CONSTITUTION OF THE UNITED STATES.*

" All theory is wan and grey,  
Green is life's golden tree."—*Goethe.*

To make or to declare constitutions involves great responsibilities, because they are laws not only for the time being, but they are expected to last for all time to come. Those who administer government under them have excuses for neglect or malfeasance, which statesmen carrying on the affairs of states without them, have not; for a thing right in itself may be unconstitutional, and things wrong in themselves may be constitutional, and thus have a sort of advanced legalization. This latter is specially to be dreaded where the judiciary holds, as that of American states has done, that all acts not prohibited in the constitution, in terms, cannot be excepted to by the courts, because then legislative and executive power is not only unlimited in theory, but practically unchecked. Those who purpose to do a wrong, simply avoid the specific form thereof named or prohibited in the constitution, and adopt an indirect mode that is almost sure to be even more pernicious than the thing forbidden in terms. The ingenuity of men in the long future, in the pursuit of their ends, is sure to beat the men of the present, who are only endeavoring to guard against known evils. The social and political elements, from whose prescience flow the proper safeguards in government, as well as the better institutions, are always more or less hampered in constitutional conventions. These assemblies are themselves but temporary bodies, and swayed by the present purposes of a period. Foresight and a sagacious policy are the attributes of single minds, who may or may not persuade a majority to adopt their views. Their ideas, when thrown upon society as the seed-field of the future, have the probability of adoption, if they are sound and can stand the test of time; but in a convention the impressions of the present control and are

against them, and they may choke them there. And this tendency of conventions justifies the witty remark once made: "that constitutions made by them are most likely to be the best instruments of a particular time, but sure to be, for that very reason, the worst for ever after." In such bodies there are always scores of persons, each of whom would make a better constitution for future use than the whole body itself. The practical of to-day is often the folly of the future; and the impractical of the present is frequently the wisdom of the time to come. That which a generation holds to be truth is generally but error that has grown old and venerable at the hand of the past.

We shall understand this the moment we analyze the import of the common remark, that the American Constitution is a series of compromises; for what is a compromise? Is it not, even in the good sense, a mutual yielding of particular forces to provisions for the common good, which these forces are in a position to deny, and would deny if they consulted only their special interests and idealities? Each compromise is, so to speak, a transaction between social and political forces (in federal constitutions particularly the latter); and it would seem that it is better and wiser to aim, in framing constitutions, mainly at providing permanent organs, that settle for society issues as they arise, than to attempt to establish a perpetual law or constant rules of action. If these premises are true, we have the test by which to judge the instrument before us, and we ask, therefore: Does the Constitution of 1787 provide efficient organs for evolving the right law at all times, or, better said, a wise, virtuous, and intelligent public will? Are the branches of the government which are erected and the forces that move them, properly self-poised? Have the bodies politic which are united by it into an organic public personality, therein the freedom of consent and dissent which is necessary to their and the public safety at all times? Will the future transactions—call them compromises if you please—of the government also be the ethical yieldings to reasons of state, just as the Constitution itself was made? Or is there a forestalling of the freedom of American society to adjust its difficulties, as they present themselves, by the rule of right? In short, is the true constitutional public spirit a continued probability in the very government that was then made, or was it exhausted in the Convention that framed it? If it still lives and has its freedom of action by the Constitution as well as in the government, then the instrument before us is a success, otherwise it is a failure.

The public mind of the period had, with all its fervor for

constitutions, an inner instinct that constitution-making might be abused for the enactment of rules and the establishment of organs, that would force them either to do what they did not want to do, or prevent them from doing what they might and ought to desire to do. They feared Hamilton particularly for that reason, and they liked Madison because his "*festina lente*" suited their temper better. And, with Washington at the helm, they felt satisfied that the ship of state would be run rather in the wake of British political experience, than by the steering-points of either rigid organizers like Hamilton or Adams, or political theorists like Jefferson or Luther Martin. A kingship modified into a presidency; an omnipotent parliament reduced to making the legislature the *master* branch of government; a judicial power confined to *cases* and kept squarely out of public *questions*; these three, as checks and balances on each other, with popular elections raised to the character of a deciding superior authority over all, these were, in their opinion, the organic totality within which that which they called liberty would be safe. To say that they missed entirely the unity of government which exists in England through the conjunction of the king, the great interests, and the spiritual and possessory forces in the two Houses of Parliament, would be as untrue as it would be to assert that it actually exists, but only in another form, in our public organism. The fact is, that the people of the states as well as the constitutional Convention were afraid of unity; they called it "consolidation," and they were really apprehensive that they had more of it in the Constitution than was wholesome. Yet when the convention was weary it voted; and, weary of discussion, the states ratified the Constitution; but it was not then, and has never been since, the actual law of our government. Ever so often sworn to, it had never more than a formal existence.

The fact just stated stands self-confessed in the political history of the United States, in the improvisation of an extra-constitutional government through our partizan organizations. Had the organism provided in the Constitution sufficed, no such outside rule would have been necessary or possible. And if it were allowed to exist at all, it should, like the British (unwritten) constitution, have been openly recognized and organically constituted. But it pleased the people of the United States to prefer to practise party politics, with constant professions of abhorrence of them, and finally to rush into a bloody war upon the theory that it was always universally understood: that submission to partizan election results was the fundamental test of loyalty. In the unwritten, but—mark it!—professedly denied,



party government, it was so, perhaps; but it was not down in the written-out constitutional government. And this creates the discord, or, if you will allow the phrase, the *Scylla* and the *Charybdis* that has ever perplexed American statesmen; for if they made the outside organism their guide, they violated the regular Constitution; and if they followed the latter, they gainsaid the almost legitimatized irregular rule. An understanding is, and has been, wanting as to what constitutes the unal public will, which none may disobey. And that understanding must, if it is ever reached, be put into writing in due form, or else it is not American constitutional law. And in saying that, we know very well how difficult it will be to put this thing in terms, the perplexity being the disposition of the American public mind not to call things by their right name. All partizans claim to be patriots; all personal-success hunters pretend to have no aim but the public good, and all profess to be obedient servants of the popular will; yet all are ever engaged either to mould it or to set it aside, if it is too sturdy for their tricks.

Every political organism must have: a known and at all times ascertainable source, as well as a depository of its supreme public will. A theocracy rests on the divine will, revealed through prophets and continued through a priesthood; an absolute government obeys the will of the living potentate; in a constitutional monarchy it is the king, sustained and controlled by state councils, legislatures, courts, and a body of officials that formulate and enforce the collective public will: commonwealths, like England, have their conjunctive public will emanating from public conferences between the elementary forces and interests existing in society; in pure democracies the popular mind, though ever chaotic, is the rule; in federal unions the fundamental agreement is the fountain of the general body politic; and its members are the residuary factors of all amendments and additions. Which of these, either separate and distinct or collective (perhaps better said eclectic), is the principle or method of the Constitution of 1787? Perhaps the readiest answer will be: they are all there; and we would be the last to deny the fact; but does it not, if that be so, prove that there is no definite unity in our political conglomerate, and that we never can arrive at a conclusive settlement of any public matter? We have political habits, brought originally from England, but they are not here, as there, a consistent part of the constitution; on the contrary, they are ever at war with it, as they are carried on by our political parties. They are really our governing machinery, and through them we have our *plebiscites* with

their variations. Call them, if you please, the bastards of our institutions, but are they not in power? Is not our whole political existence an eternal voting process on fictitious issues, always ending in fictitious decisions?

The preamble of the Constitution would seem to indicate that the Convention regarded itself as the medium of popular sovereignty; but the body of the Constitution reads as if the legislative and executive organs therein created were to be the authorities that formed the public will by deliberation, *after* they should be elected. General Washington did so regard it, and with him, though in a more offensive way, Adams and Hamilton. Jefferson was for a predetermination of public question by popular will, and he drew Madison to himself, though the latter was much less pronounced. At any rate, the school or party they formed and carried into power fought their politics on that line, and are responsible for the almost total absorption of the politics of the country in party government. That they started it only in opposition to another kind of party government, that of combined great interests, is true; but also, that they gave to theirs permanent and formal, if popular, dominion, and that it has grown as a democracy into an embodiment of an office-seeking and office-holding class interest, which awaits now only an identification with great social class interests to form, as an aristocracy, not only the meanest, but also the most irremovable tyranny the world ever saw. It intends at all times to put its will, formed from motives of party interest, in lieu of the regular public will, formed from motives of common public interests; and the voters are but the tools for giving this or that class interest preponderance. Our people may laugh at the chains that environ them, but they are none the less enslaved.

This compound character of our institutions,—compound of ideal written and unwritten modes of government,—crops out specially in the lower House of Congress. Its model is the British House of Commons, minus the right to vote cabinets in and out; still it is a partizan legislative body. It was intended to be the ever-ready power for holding the executive branch under constant and immediate responsibility. But the President being also elected by the people, both claim to represent popular will. To find which is to be the master-will, it always takes a presidential election. But does it close matters then? The constant and immediate responsibility of the Executive is thus entirely frittered away, and the Constitution has become like a closet full of good things that is locked and the key lost. Still the sense of a want of having quick and direct responsibility is in the

public mind, and various attempts have been made to interpolate it into our government ; but as the Constitution is closed on the subject, nothing is left to our parties except to instigate cross movements, in which the branches of the government play off on each other. And the end of it all has been, that power has ever stolen in the United States from the regular government to our parties, because they determine men's public careers, and are always assumed to be the final victors. Ignored in the Constitution, they organized themselves, and forced all to bow to them. And all their movements have a roughness, a violence, and an immorality, which they would not have had if they had been definitely recognized from the beginning, and their spheres had been clearly prescribed. We have, indeed, efforts towards what goes by the phrase "Purity of election." In Ohio the so-called "*Baber law*" has been passed, that subjects primary meetings for the election of delegates to nominating conventions to legal forms. Thus necessity seems to be forcing American society to bring the wild sprig on our democratic tree within the purview of normal government ; but it still awaits the insertion of good grafts by the hands of statesmen to make it bear good and wholesome fruit.

The constitution is specially defective in not drawing the lines of power for the different branches correctly, and in several parts the framers crossed their own purposes. For instance, Art. I., sect. 1, says :—

"All legislative powers herein granted shall be vested in a Congress of the United States."

But Art. XI., sect. 3, makes it the duty of the President "to give from time to time to the Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient." Is not the latter legislative power ? And Art. I., sect. 7, provides that before any bill, order, or resolution or vote, shall become a law or take effect, it shall be approved by him.

Shall we assume that the framers of these provisions did not know that the "initiative" and the "final approval" of laws are essential elements of the legislative power ? Or shall we hold that a then predominant public sentiment in favor of excluding the executive from the law-making power dictated the first quoted passage, and that the other two clauses were penned under the necessity of having due coherency and unity as to legislation ? We believe that both comity as well as truth compel us to adopt the latter conclusion. By reference to the proceedings of the Convention, it will be found that the legislative clause was first penned without the veto power, and that *it*

was very reluctantly yielded. And it further appears that the clause, giving the President an initiative, was conferred with a reluctance similar to the approach of a bachelor towards a woman he would rather not marry, but is compelled to do so by overweening circumstances. The public mind remained unconscious of the true status until *Van Buren* said in one of his messages: "The President is a component part of the law-making power." This was received as an innovation, the community being evidently not aware that he but stated a constitutional fact, and vindicated a public necessity, which political science had ever adopted as a true maxim.

The same obtuseness as to the true unity of government clouded their minds when they came to pen the provisions for the judiciary. They appear never to have realized that judicial decisions are the finishing touches of law-making, and that Art. III., sect. 2, when it says, "The judicial power shall extend to all cases in law and equity arising under this Constitution and the laws of the United States," did not mean obedience to the principle: that there must be in all political power a mediating authority for the protection of society against legislatures and executives, such as courts of justice, and that the highest and best law exists only, *after* all the branches of government have acted upon it and united in it.

Had the Convention said in Art. I., sect. 1, "All power to enact laws shall be," &c., and the subsequent provisions which we have quoted would have been consistent with it and true unity. Then the United States would have had their total personification, their public will, and their political action in unity, and yet properly subdivided.

Let us now pass to another part of the instrument, which contains a similar fault. Art. I., sect. 8, clause 18, says:—

"Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof."

Does not this provision confer upon Congress power, which belongs logically to the executive branch? Is it not in its very nature an executive function to expedite, publish, and carry out the laws? Should not the respective administrations issue the proper decrees, orders, and instructions subject to law and judicial rule for this purpose? To us it seems plain that the framers erred not only in striving for an impossible separateness of the three branches of government, but also in giving to Congress powers which the true reasons of state give to the



executive and administrative branches. They invaded the very discipline without which the public administration always ends in confusion.

But our disagreeable task is not ended here; it forces us to point out other provisions, which show that the framers were far more engaged in reforming the abuses of other and previous governments than in finding the symmetry and logic of their own. The clause requiring "all bills for raising revenue to originate in the House" is an incongruity in our federal constitution; it would be out of place even if it had not been a federal instrument. In this country the Senate is the wall of defence against the abuse of the taxing power, which the House of Commons was intended to be in England; because *here* the policies that cause taxation originate in the body of society; and they have in the United States Government no counterpoise, except the body that represents the states. The provision has sense in a government in which (outside of the House of Commons) a dynasty, a landed caste and orders of nobility, as well as an established Church, have fortified themselves by political power and organs, for these are ever hungry for money and special immunities. Here the commoners are the elements that "expect too much of government," and magnify for that reason its powers and expenses. The senators, being less subject to popular will, are more open to moral reason and political rectitude. For this purpose the President pre-eminently, and the Senate nearly as much so, are our defence. To war upon them, to stint their normal authority and to strengthen the House at their expense, weakens the whole structure, for it makes it lopsided, and therefore ever inclining to the power which it is most difficult to bring under due responsibility—the popular branch of the legislature.

The attempt to lessen this necessity of responsibility as to the legislative power, by having in the Constitution a series of specifically enumerated powers, was certainly not a success. Congress was never slow in finding excuses for exercising non-enumerated powers. And this stealing of power carried a disagreeable trait into American politics—that of legislators construing themselves into authority by subtle disquisitions. And the result has been, that instead of the intended moderation in law-making, we have a sharpened political wit, that invents plausible arguments for the use of non-conferred powers.

A similar effect has come out of the studied exclusion of the personal participation of executive offices in legislation. It was right to provide that "no person holding any office under

the United States shall be a *member* of either House of Congress during his continuance in office;" for it was a precaution against an abuse in America that had proved a corrupting influence in the British Parliament; but it was moral cowardice to extend the exclusion of executive administrative officers beyond membership, and to the right to explain public measures on the floor of Congress. It meant that the legislature was afraid of the legitimate power which the statesmen, that conduct government, have over the mere legislator; and that rather than concede it, Congress would deprive itself of a part of the talent, capacity, and integrity in the land for public purposes; in other words, that we shall have worse legislation. Congress has since obviated indirectly the most serious evil hereof by inviting executive officers and experts before its committees; but it would have been both manlier and wiser to have allowed the thing directly, and conceded to the *members of the Cabinet* of the President a limited right to speak on the floor of Congress.

The *negative* provisions of our constitutions have, like all negations on the exercise of political power, the probability of being the best for themselves. They are the product of experience, and carry history as tests with them; while positive conferments of power and organizatory creations have to make their own experience, and are subject to the tests of future events. But to have this advantage, negations must be purely negative; they not only lose it, but are two-edged tools, if they are so worded (or there is a custom of construction) that interprets them into positive or affirmative grants. Such clauses are in Art. I., sect. 9; as, for instance, clause 1—

"The migration or importations of such persons as any of the states now existing shall think proper to admit, shall not be prohibited prior to the year 1808."

"The privilege of the writ of *Habeas Corpus* shall not be suspended unless, in case of rebellion or invasion, the public safety shall require it."

"No money shall be drawn from the treasury but in consequence of appropriations made by law."

From all these clauses there have been claimed and used powers that are nowhere given in terms by the Constitution; and the only basis for them is the assumption that Congress is *the legislative power*, not only so far as granted, but also for others on general principles, and from *a priori* reasoning. The latitudinarian construction, of which the school of Jefferson so much complained, was therefore (obviously, as we think) ingrafted in the Constitution itself; indeed, we may say it was

hereditary. It began in Magna Charta, it was in the "Petition of Rights," and is the main point in the "Declaration of Rights." That such clauses have no business in *federal* law was evidently overlooked. The reader must not think that we are exaggerating; for there is involved here the fundamental distinction between federal and civil law. When several organic societies join by a constitution in a united government, it possesses only the powers given in terms; while *civic* governments derive their authority from scientific combinations, or logical deductions from the principles evolved by general philosophic reasoning. It is therefore an abandonment of the true construction of federal law when provisions are put into the Constitution that necessitate a departure from it so as to make these intelligent and consistent. It opens the door to interpolations of constructive powers, and vitiates the whole instrument.

A similar indirection prevailed as to the eleven interdictions of state authority in Art. I., sect. 10. For every denial therein, the United States have construed themselves into one or more grants of power; and by their aid Congress has authorized the issue of paper-money, it has passed laws impairing the obligations of contracts, and levied duties on exports. Here also the fault was that the first requirement of a federal constitution, that of defining squarely the respective spheres of all public authorities embraced within it, was only very partially and very defectively performed.

Several misapprehensions perplexed the framers of our Constitution, as they do still our courts and the public mind.

1. That every power granted to the United States is exclusive of all state and municipal authorities.

2. That a power denied to the states is *eo ipso* granted to the general government.

3. That powers not denied to the states are *per se* possessed by the states.

4. That there must be no co-operative or adjunctive exercise of public functions between them; and—

5. That they cannot use each other's officials for mutual advantage and the discharge of their respective public functions.

These misapprehensions have kept us from having proper military as well as police forces; from many excellent fiscal arrangements; from a unal system of taxation; from proper national commercial legislation, including the relation of debtor and creditor; and last, not least, from a clear definition of national, state, and local citizenship. It is high time that this matter be taken in hand; for it is cruelty to us all to leave us to our uncertainties.

Before passing to the other branches of government, we must bring before the reader's mind the most flagrant dereliction as to the performance of the evolution of ethics for American society, which Congress has been guilty of. We refer to its use of the powers given it by the clause authorizing it to enact a bankrupt law. Under it the legislative power might have elevated mercantile honor, guarded society against fraudulent debtors, seen to it that there should be proper books kept in establishments, and perfected generally a code of commercial law. It could have prevented the regularly renewed universal plunder of one portion of trade by other parts thereof through fraudulent debts, and placed inter-individual and inter-corporate credit on a firm basis, thus giving America the thing of all things it most needs.

Now what has Congress done? Instead of coming up to the intention of the framers of the Constitution, it has thrice already made its bankrupt laws merely the intensifications of vicious state legislation, that catered to a low moral tone in reference to private indebtedness.

When now turning to Art. II. of the Constitution, we come to the Executive branch, and we can read between the lines the conflicting views that possessed the Convention, and which had to be reconciled. A part wanted no Executive at all; some an emaciated kingship, but none a clean-cut administrative capacity. They came eventually to a president, partly because the name implied a *præsidium* rather than a personal reign. It had been used in previous union plans, and had come from the Dutch Republic. They—the Fathers—would not face squarely the necessity inherent in all government, that of having, in the best sense, what was in Europe the inherent idea of the name king. So they erected a vagueness, and we have ever since had a struggle between the logic of government and their presidential creature, in which the former had some victories, but is, on the whole, still much under a cloud. The result may be stated briefly to be: that we are still without the chief magistrate that stands above parties, one that as such imparts unity and harmonization to public affairs. Endless discordance still reigns; for the *pupa* president that came out of the hands of the Convention has become a partizan *chrysalis*, and is the butterfly in our politics that dazzles the public eye at presidential elections. First the people catch the butterfly, then it catches them. Before the election, it can be anything the public may be persuaded to imagine it to be, but afterwards the stern realities of the office assume their enforcement, and then it turns out, that the President is tied and unfree in



all he should do; and loose and uncontrolled only as to what he should not do. The executive branch ever finds itself both opposed as well as supported for false reasons, and when it proposes to emancipate itself and the country from these trammels, the fact stares it in the face, that the very men of the land, whose social position, education, and temper of mind should make them the natural supporters of any enlarged policy, are, almost without exception, kept out of public positions.

Interesting is in this connection the oath required of the President before he enters on the execution of his office: "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

*Preserve! protect! and defend!* are pregnant words; all other public persons only swear to "*support*" the Constitution. We naturally ask: Against whom is—*He*—to perform those duties? Is it foreign enemies alone? Or are those also meant, who, though citizens, bear political arms against the country or conspire against it? Yea, does it not include the encroachments on the constitution which Congress, or the States, or their people may attempt? We cannot escape the conviction that we have in this oath the breaking through of the fundamental perception of the sphere of the executive power in all governments, which, whether it be called king, or imperator, or lord-protector, or president, is the personification of the unity of government. Had the oath been backed up by provisions consistent with it, then the United States would have been spared the gradual sinking of the thing so well (or shall we say ill?) described by Carlyle, viz.: a being having "the faculty of giving places, of having newspaper paragraphs written for it, and of being waited on by sycophants." Jackson ever appealed to this oath for the justification of all those great acts of his for which his opponents could see no right in the Constitution generally, and which they could not reconcile with the dwarfed Executive as they conceived him. And Jackson was indeed a President of a very different order.

The Convention had in its presiding officer, Washington, its model President, daily in its eye. He had actually been the preserver, protector, and defender of the Union. He filled exactly the presidential mantle; but, for his successors, it was either too large or too small. John Adams lacked personal prestige; Jefferson, the undivided confidence of all the states; Madison, the repute of the possession of executive capacities;

Munroe revived the memories of combined talents and faculties, and he needed only a third or fourth term to have filled the original conception entirely. J. Q. Adams, though the President, that had the highest political culture, took the office against the good-will of the nation, and he never could gain the respect without which a President is a pitiful failure. Jackson stretched the constitutional mantle to its utmost, and it hung around his successor Van Buren like the garment of a giant over a dwarf, and the country has ever since remained bewildered. They saw a Madison in Polk, a Washington in Taylor, a Jefferson in Pierce, a Munroe in Buchanan, and a *quod libet* of all good Presidents in Lincoln. We will not pursue our observations farther to Johnston, Grant, and Hayes. We can only say, that the country got on the inclined plane of presidential qualifications, through the change of the electoral vote, into a popular election,—the one-term humbug, the two-term, ideality; the party machinery that would have only party *crank-turners* at the head; and a body of voters that wanted a slave, and got a master. The presidency of the Convention of 1787 rested on two eyes; that of our day rests on the many-eyed monster, a domineering party, which with all its eyes, is stone-blind.

The deterioration which attacks the vitality of government, both in its public service as well as its organic efficiency, consequent upon conflicts, caused either by an inherent defect in the Constitution, or by a disputatious public mind, one that is unclear, not only as to what the Constitution is, but also as to what it should be, and particularly so as to what it would like it to be,—these deteriorations, which are, as we have seen, so marked in the executive and legislative branches, exist to a less degree in the judiciary. Anglo-Americans have, with all their distrust of government, a traditional respect and confidence in courts, because these have neutralized in England many institutional defects, and made tolerable its almost intolerable public administration, that grew out of the Roman, Saxon, and Norman invasions and subjections. Hence the judicial system has been less vulnerable to party onslaughts than the President and Congress. The difficulty has, however, been, that the necessities of American society and government could not be properly subversed by courts, and a jurisprudence that moved chiefly on British precedents, worked out under peculiar historic conditions, that were in the main no longer applicable in the United States. And as the objects and purposes for which the House of Lords had final judicial powers, which had induced in Germany the *Austrägal-Gerichte*, or high arbitra-

tion courts with final jurisdiction, as we would call them; and which France has sought to work out by councils of state, by courts of cassation, and high courts of justice, to wit: the settlement of vital questions of government and the controversies between the several branches and departments; we say, since these objects and purposes were left in the Constitution without a judicial tribunal, it left a void which the courts have tried indirectly to fill through the Writs of right, and Congress by other makeshifts, such as special commissions with mixed legislative, judicial, and semi-executive powers.

Consequently it has been as difficult to say: what was lacking in our courts; as what was too much; and it would seem that an entire reorganization, based on *à priori* reasoning from principle and the fitness of judicial men and things, will have to be effected. And when it shall be done, when we shall be entirely rid of the disjointedness caused by the subdivision of legal procedures into equity and law proceedings, and shall have a unal judicial organism, including a ministry of justice, with proper subordinations and gradations and specialities, then we shall not have to witness, as much as now, either the disgraceful grasping of judges for jurisdiction or the pitiful shirking of responsibility that now blemish so many of our judicial personages.

We will not pursue our criticisms further on this subject; we have said enough to bring out the fact that our Constitution is open to them on all sides. George M. Dallas said of it—1845-46—as Vice-President of the United States:—"The Constitution in its words is plain and intelligible, and it is meant for the home-bred, unsophisticated understandings of our fellow-citizens. . . . The people alone are the absolute owners and uncontrollable movers of such sovereignty as human beings can claim to exercise, subject to the eternal and unchangeable rules of justice, of truth, and good faith. The moral law is out of its reach; sovereignty cannot violate that and be more justified than the humblest individual. . . . Yield away the Constitution and the Union, and where are we? Frittered into fragments, and not able to claim one portion of the past as peculiarly our own. Our union is not only a blessing, it is a political necessity. We cannot exist without it. I mean, that all existence, which is worth having, must depart with it. Our liberties could not endure the incessant conflicts of civil and conterminous strife, our independence would be a mockery, our very memories would turn to bitterness."

This is not a *defence*; it is more than eulogy—it is idolatry. It proves that the instrument was not only not understood by

him, but actually misunderstood. Not a single one of the members of the Constitutional Convention of 1787 would have agreed to this panegyric. When the instrument left their hands, the utmost they could and did say of it was, that they accepted it as a sincere effort towards a better union. As it went into practice, they saw, like everybody else, defects, and either joined in or opposed the provisions that were proposed to remedy them. All desired, before they died, this or that correction in the text and scope; and they were perplexed by the totally different course which public affairs took, from what they anticipated. Silas Wright, the wisest and truest friend of the Constitution, who, though not a member of the Convention, had enjoyed the confidence of several of them, said: "If studied faithfully and by an unbiassed mind, it will lead it to read the Constitution practically and to understand it as it is." And he adds in the same letter:—

"No one familiar with the affairs of our government can have failed to notice how large a proportion of our statesmen appear never to have read the Constitution of the United States with a careful reference to its precise language and exact provisions; but rather, as occasion presents, seem to exercise their ingenuity, unfortunately too often powerful and powerfully exerted, to stretch both to the line of what they at the moment consider expedient. A reference to a careful, perfect, and full analysis of that instrument and of the grants of power really found in it, cannot fail to exert a strong and salutary influence upon such minds."

There is but too much truth in Governor Wright's remark that the constitution has been stretched for expediency's sake; but is this not a necessity with all written constitutions? Suppose, for argument's sake, that a given constitution should contain, when made, the very best political thoughts, and have for their development the aptest organs; and for how long would they be best and aptest? Is it not clear, then, that the better a constitution fits a certain land and people at a given time, the less will it fit their future condition? Every constitution-maker looks, therefore, forward to a coming time, which he can but imagine, but not realize sufficient to take its measure. The best written constitution becomes in time obsolete, and only those seem to escape this fate (for a time) in which the practical politician co-operates with some prophetic genius. They extend their own age to and bind it to the future; while those who have to carry out the constitution which they made, extend their instrument, so as to refit it to the then living society. The old proverb, "Man wants but little, nor that little long," applies also to



constitutions. Obviously, therefore, whatever went into the Constitution of 1787, beyond the formation of a closer union and a free-er organism for the government of the United States, was a hazardous experiment. The time is fast coming when the government established in 1787 will have to be superseded like its predecessor, the Confederation; and then we hope the country and the people shall be ripe for the *one* constitution that unites all, and constitutes for them a total organism, that secures local freedom, but also an effective general government.

The inspiration most needed for a country's constitution is an intelligent, virtuous, and wise public spirit; it alone can quicken into life, and always at the right moment, the proper readjustments of social with political conditions. Constitutions that debar society from carrying out its well-matured public will are as obnoxious, as a public disposition that sets easily aside the recorded experience of preceding generations.

"To the *Old* true,  
Yet friendly to the *New*,"

is one of the mottoes of the author from whom we quote at the head of this chapter. That is his "life's golden tree."

A public will embodied in a constitution always deserves respect—yea, reverence—but never worship. We yield the first to the Constitution of 1787, including its fifteen amendments. It contains many provisions that should be carried out in all integrity; but there is not one word in them which should preclude American society from ever inquiring; whether a change is not necessary. We know, that a thorough revision *is* necessary, because there are provisions that are already obsolete, whilst others are being used for public harm. The great task of safeguards protecting government against social forces, and society against political usurpation, is still unperformed.

The best work in our constitution is, if our premises are true, the general framework. That will enable us to discard unnecessary provisions, to add others that may be needed, and to rectify defective points, and thus we hope we shall continue to be organic and ethical, that is to say, national. We owe, therefore, gratitude to the Fathers, not only for the good they accomplished for us, but still more for the improvements which they intended to inaugurate and left for us to secure; and this latter duty, that of revising the Constitution by the aid of experience, is now upon this people. The sooner, and the more careful it will be performed, the better.

## CHAPTER IX.

*THE RESOLUTIONS OF 1798.*

America hath neither the power, nor the will, to end the crisis, that is forever upon it."—*St. Simon.*

THE resolves of the States of Virginia and Kentucky, that go by the name that stands at the head of this chapter, have received both more laudation and more censure than they deserve. They have neither, as they purposed, arrested the real diseases of the government, nor produced, as they are accused of, the disasters ascribed to them. The crisis, that was claimed to exist at the time of their promulgation, existed more in the brains of the authors of the resolutions than in reality; and the remedy was too heroic for the actual wrong. This would have been seen early, if the movement had been seconded by the other ten states, and become one of the acknowledged methods in politics. Their immediate object was to oust a party from power, and to put another one in its place; and, as is usual in partisan warfare, a much louder alarm-bell was rung than was really necessary. And this practice of exaggerating public grievances—making a mountain out of a molehill—was thus begun in the United States. *It* is the great fault of our parties, for it prevents an impartial settlement of public questions. It seems almost inseparable from the politics of countries, that are attempted to be governed through popular suffrages, because the thing to be done at elections is to arouse the people from the apathy, to which they instinctively incline.

Overacting was, however, in the latter part of the eighteenth century, the political mannerism in America, for special as well as general reasons. The French Encyclopædists, and Beccaria and Bentham had incited a radical inquiry into the nature of government. They saw, and the world with them, how noxious a superstructure had been built on false theological and political premises; and it seemed to that age, that mankind could not be over-alarmed in furtherance of some immediate reform. All

were seeking sounder foundations for [the new, and, as they believed, better political edifices with which mankind were to be blessed.

The framers of our Constitution, and those, who organized the government under it, were all more or less infected with this sentiment, and the ten amendatory articles were added to the Constitution in pursuance of it. When, therefore, under Adams, the ship of state was careening, to what was held to be the wrong side by those who regarded themselves as Republicans *par excellence*, they concluded at once that the difference between themselves and the Federalists was fundamental as to the nature of the American government, and they set to work to rectify it by state resolves, which was then the readiest and handiest *modus operandi* for appeals to the masses. They effected their partisan object, but established no permanent fundamental rule for the government.

The Americans of that period had taught and talked themselves into the belief that two perils threatened the country—first, a relapse into British royalty; second, the erection of some “kingship” in America itself; and the press and the stump were to them what the village-bells were formerly in Germany, when the Huns and Turks threatened Fatherland, to wit: means to keep them awake. Sentinels of liberty still believe, that sounding the alarms sharply and often is the best service they can render humanity. Like steamships at sea that are befogged, they ring the gong at intervals and alternate with the steam-whistle. During Washington’s administration, who was too much a king in the good old sense to want to be one in America, these signalings always failed in arousing the people, because they had unshaken faith in Washington. But when Adams had become President and Hamilton the party leader, the people were much easier led to mistake the positiveness of *their* characters for a royal disposition and kingly inclination. And this suspicion received strength from the fact that these statesmen sympathized with imperial England against republican France. Adams had been minister at the Court of St. James, and his reception and behavior there had been distorted. So when the British commercial treaty became one of the measures of his administration, and the alien and sedition laws were passed, it drew the fire of the Republican batteries in the press and on the stump, and America had its first great political fight. The Resolutions of 1798 gave the battle-cry!

Adams and Hamilton’s course was impolitic, nothing more; but it furnished Jefferson and Madison’s friends with the

plausibilities, which they needed for their opposition. The alien and sedition laws gave, indeed, the President an undue degree of arbitrary power. The first provided that "an alien guilty of treasonable and secret machinations against the government of the United States should be expelled by order of the President,"—mark!—without the benefit of judicial inquiry and adjudication. The animus of such an enactment was, however, the most objectionable point in the popular mind, for it was believed that the aim was chiefly against French republicanism; and as the Americans were still in the mood of regarding themselves as the general protectors of human liberty, it was denounced as treason to freedom. Jefferson afterwards exercised himself the power of ordering mischief-making foreigners out of the country without legal process; Jackson tried an alien by court-martial for aiding Indians, and he was executed within twelve hours; and Lincoln, Seward, and Stanton, and A. J. Johnson, arrested, arraigned before improvised courts, and executed judgment much more arbitrarily than was done under the sedition law. Thus America is a reillustration of the inscription on Hadrian's grave: *Pro dolor quantum refert in quæ tempora vel optimi cujusque virtus incidat* (Everything depends on the time into which even the best man's virtues fall).

John Adams allowed himself to look at French politics through British spectacles; but not those of the king, the lords spiritual and temporal. No; he saw with the eyes of Burke and Bentham. Their views were, however, not free from the common English failing of judging other nations by British preconceptions. Washington, Jay, Knox, Hamilton, indeed all conservative Americans, had been more or less influenced in this way. Even nowadays much of this "*fulsetto*" English view of Continental politics prevails.

But we are much more interested in the mutual misunderstanding (often it was misrepresentation) of American politics of each other, and we must bear testimony to the truth, that Adams and Hamilton were neither royalists nor centralizationists (as a policy); on the contrary, they were good Federal republicans. But it must also be stated, that Jefferson and Madison were not what the Federal party charged them to be, viz.: Democrats in the European sense, nor could they be designated truthfully now as Socialists or Communists. The fact is, that all the four named were true friends of America; and if any one of them ever did this country any harm, it was an error of judgment, not of intention. It is, therefore, ever to be regretted that they allowed a British habit, that of dividing into



parties, to estrange them from each other. Their friendship would have been the glory of America, whilst their enmity inaugurated its standing disorder. Considered as a party document, the Resolutions of 1798 contain much correct federal law. It is, for instance, true that "the American states did not unite on principles of unlimited submission to the general government;" so too, "that they intended to do no more than constitute a general government for special purposes," and that they thought "all authority conferred was delegated power." Sound is also the position "that the federal government is not the exclusive and final judge of the extent of its powers;" but we cannot see, how it follows therefrom that, "having no common judge, each state has a right to judge for itself, as well of infractions as of the mode and measure of redress." This axiom is taken from that part of international law which Vattel calls *voluntary*, as it rests on "presumed consent;" but it is in this instance sought to be applied to *conventional* inter-state law, which exists by "express consent." That was certainly an error, and why? Because in that branch of the *positive* law of nations, the treaties (in this case the Constitution) constitute the law. And to the extent that their agreements together provide for a redress of grievances or infractions, the modes therein provided must be followed, or the nation or state, that does not do this, subjects itself to the charge of having brought about an unjust war by pursuing unlawful ways in seeking redress.

A federal union is a bond of perpetual peace; its constitution is federative in its origin, that is to say, it originates neither in an accident nor is it imposed by force; it rests on the general moral obligation to keep the peace as to a particular kindred people. Being such, it becomes legally binding, and this gives the right to have it enforced. This applies to our federal Constitution and its several amendments. No general axiom of international law applies to it upon any issue upon which it contains provisions. Not, what the inter-state relations were *before* it was made or *while* being made, can be the rule of action, but the Constitution and its subsequent developments are the guide.

The set of Resolutions passed by Virginia had the revising hand of Madison over them, and as he had been a prominent member of the Convention that framed the Constitution, and had, while it was before the people for ratification, explained and advocated it, he was under a different sense of responsibility than Jefferson was. Madison watched with great anxiety the reception of both his as well as Mr. Jefferson's (Kentucky)

resolutions before the people. When no other state responded, by approving them squarely, and many questioned their propriety, he made a report to the Virginia Legislature in support of them, and it has been taken as the authentic commentary on the Resolutions of 1798. But this can only refer to the Virginia resolutions, for Mr. Madison does not himself endorse, except by inference, the Kentucky resolutions. His defence of his own resolutions is a masterpiece of argument and diction; but it is at last a defence, and besides, an indirect disavowal of the more rugged edges of the resolves of Kentucky. Like a skilful diplomatist, *he* avoids presenting an ultimatum, that must either be accepted or lead to war, and equally so does he abstain from asserting, that the states are to be both the coeval and concurrent authority and factor in the nation's politics, and that the federal government is subsidiary to them. He is very positive, that the federal powers of the United States government are derived from the Constitution, but is silent as to the correlative proposition, that everybody else, including the states, are equally bound to show an express provision in the Constitution for any interference in federal affairs.

The Virginia resolutions rest the right of opposing and arresting federal action on "deliberate, palpable, and dangerous breaches of the Constitution," and Mr. Madison expressly states, that it is not to be done in "a hasty manner or on doubtful and inferior occasions." Assuring as this was, in the face of the Kentucky resolutions, it did not fully quiet the apprehension that there was a purpose to cast the Union back into the political condition, when the states were the continual co-agents in national affairs. Nor was Mr. Madison explicit enough to give his states-rights friends the full light necessary to eradicate their misconceptions; and being left in the indefinite, they ripened in 1832 into nullification.

Jackson, then, assisted by Livingstone and Van Buren, drew the distinction between peaceable opposition *within* the Constitution and armed resistance *out* of it, and showed nullification, when stripped of sophistries, to mean disunion and war. But still the full truth was left out, to wit: that every individual, as well as every body politic, including the states, must prove their right, to act in a federal government, by a specific recognition in the Constitution; just as much as Congress, the President, the courts, and all public officers. All federal authority is conferred and prescribed authority; there is no common (unwritten) law in such governments. Federal unions are organs created by states for specific objects. Their framework, down to the minutest detail of official life, is the act of these states; but

no one, nor several of them, can, after the act of union has taken effect, exercise any function therein, except it is so stated in the bond. The right to form a public will, and to enforce it, belongs only to the agencies named in the instrument, and all interferences, whether by instructions, or forestallings, or otherwise, violate the fundamental law. The rule, that when five join in appointing an agent, it takes all five to instruct and direct him, and that no single person of the five has any powers over the agent except those agreed to by all, applies here. And we may, when we reflect on the actions of our political parties and their insolent inroads, wonder that nobody has yet questioned their right to control and govern our federal government. Of all the usurpations of authority, this state interference is the worst, and at the same time the least legitimate. Where had our statesmen their eyes, that they never perceived this usurpation?

The word "self-government," as used in the Kentucky resolutions, was a misapplication of a sound conception. States and municipalities may be self-governing and yet have and be under a strong central authority; provided they are allowed to attend to their proper sphere; as is, for instance, the case with the local governments of Spain, England, and Scotland; but they are not self-governing, unless they do actually perform their rightful part in the general public organism. When a public want is either not satisfied or defectively attended to, which belongs to the province of local administration, it begets a restlessness in the public mind, which will seek appeasement in some way. A mere negation of central power will not settle the point; it takes actual government, or rather public administration, and it as free and efficient as possible, to content the public. The Kentucky resolutions were well enough as a deserved censure on federal conduct; but it was irregular and abnormal in mode and manner, because it was not an exercise of local authority over local measures, but an undue interference with federal affairs. The federal government was over- and mis-acting its part, the states also theirs. Or was it, under the Constitution, any less a usurpation for the states to correct the Union authorities, as states, than it was for the federal government to prompt and to regulate the states as a general government? Each, it seems to us, had two faults: first, in doing what they were not authorized to do; and second, in not discharging functions clearly appertaining to them. And thus, instead of having a federal government administered free from undue state interference, and states administering their affairs, free from false federal intermeddling, we have both unfree. If both Jefferson and

Madison had paid a little more attention to the *mote*, in the states-rights' eye, than to the beam, in that of the federal government, they might have not only reformed the then government, but also prevented future mistakes and the evils they carried in their train.

We may, in refutation of our view, be reminded of the tenth Article of the Constitution, which is in these words: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people;" and be told that this provision upsets our rule. But we beg to adhere to our perception; because we believe, that there is but one essential kernel in this passage, and it is; that the states need no grant of authority from the United States to perform *their* public functions, and that their conduct cannot be regulated by the United States Government, except in matters expressly stated in the Constitution.

This tenth Article has been quoted and praised as the sheet-anchor of the Constitution, but we cannot see it in that light. Its verbiage is too general and indefinite, and the main object of this amendment of the Constitution was lost when it said, at the close, *the* people, instead of *their* people. Had it said: "All residuary powers rest with the states: the United States have only delegated powers, but their free exercise is guaranteed," it would have saved much disputation. As the provision reads, it has proved a rope of sand; because it brought in, that *Deus ex machina*, "*the people*," evidently setting aside in effect the states through an indefinite and indefinable popular power. It is always ready for demagogues, but never for the people or its statesmen. One thing is plain, however, the article does not confer on the states the power to meddle in federal affairs, nor can any such power be construed out of it, as a reserved authority and part-machinery of the United States Government.

The doctrine of *nullification* is much more broadly stated in the Kentucky than in the Virginia resolutions, and there is also much less care taken to disavow the idea that the states are, as official bodies, a part of the administering organs of the Union. That they are an integral part of the Union both assert, and (who doubts) correctly? The Kentucky resolves are three times as verbose, and contain much more special pleading than those of Virginia. The fourth resolution seems to us to strain a point when it says "that *no* power over aliens has been delegated to the United States," for surely Art. I., sect. 8, clause 4, gives Congress power "to establish a uniform rule of naturalization," and, under it, it has been made a precondition of citizen-



ship to abjure all allegiance to foreign powers and his own special government. Thus, while the right of the states to allow residence to any aliens; as aliens, is still with the states, yet the right, to make them United States citizens, is with the federal government. State citizenship, the conferment of the elective franchise, of the right to hold office in the states, is not a matter of federal jurisdiction. The states cannot expatriate a United States citizen; but it would also seem that the general government cannot expel an alien, unless he turn a public enemy, from a state that has given him protection. At any rate, it is a question which in comity should be left to state adjudication; for it involves a personal status, which state courts can best determine. Mr. Adams's law was unfair, arbitrary, and legally unsound, as well as an abuse of power. It was properly opposed and repealed; but it was not an out-and-out usurpation. Mr. Madison draws very properly the distinction between alien enemies and alien friends, but he forgets, that an alien friend may at any time (while unnaturalized) become an alien enemy, and the two years' probation, between the first and final naturalization papers, seem to have been required to make matters sure in this respect. If Congress can prescribe probation, why not enact other equally reasonable provisions?

The Kentucky resolutions are, of the two, the more outspoken on all points; as, for instance, in the passages: "Free government is founded in jealousy and not in confidence;" . . . "in questions of power let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution." We presume that the man in office or exercising authority is here meant. It is this sentiment that is at the bottom of all the reasoning in these resolutions. It desires to ignore the fact that there was a federal government then in existence; that Washington had administered it; and that it had greatly justified the confidence placed in it. Hence we find, in the treatment of the issues discussed, the states named as the sole parties to any controversy. And the idea was, besides, that in the states resided the purer public men. It was the old question back again, whether the states, having formed a confederacy and established a Congress, could, by their own separate will and pleasure, set aside the Union and its Congress. The fathers found it best to make the Congress a party to their proceedings for a new constitution, and thus to make an inchoate right legitimate. The Constitution of 1787 was a collective public will, and it provided for consecutive formations of public wills, and it takes, as Madison states, very positive flagrant and

premeditated violations of the Constitution to justify armed resistance to, or a revolutionary setting aside of, the Union government. Their own self-respect and dignity should prevent the states from all wanton and unconstitutional intermeddling in federal affairs. They ought not to go too far in the political fiction, that they are *per se* the purer of the two.

The Resolutions of 1798 were for sixty years the gospel of one party, the object of dislike to the other; and it might be supposed that between them the resolutions would have been analyzed and understood. But subjects of party and sect disputes never tend to the elucidation of matters, but to their mystification. The Democrats, or Republicans, as they were formerly called, kept resolving annually that they contained the true political chart of America. The Federalists and Whigs declared the contrary, but in an undertone; for they were afraid of them. Neither party was, however, really cognizant of their contents. The one that adopted them, as a faith, were too devout in reference to them to examine them critically; the opposition were too much cowed by them to master them. When the trial came between 1862 and 1872, the Democrats abandoned them as a party, because they would have held them to do what was unpopular, and they allowed the other party to throw them aside, in 1861 already, as rubbish of the past. It is always so with articles of faith which embody *belief* and not *knowledge*! They really have no hold of the believers' minds; they are neither religion nor law; they are stumblingblocks to all proper developments; because they prevent an impassionate consideration of concrete public questions.

The main difficulty of public acts like the Resolutions of 1798; consists in their being the emanation of a partial and not a collective public will. As *all* the well-disposed elements of society do not enter into them, they do not amount to that highest quality of public thinking, which every honest patriot must, sooner or later, admit to be right. Had either the democratic or the opposite party tested the resolutions by scientific standards, they would long ago have agreed that while they contained some exaggerations as well as irrelevancies, they nevertheless presented some important truths, especially Mr. Madison's report on them. The bank, money, tariff, civil service, and similar questions, that have for a century vexed the public mind, have all remained undigested issues, because party pride and personal interests have been enlisted in them. And the real nature of our government has, to this day, failed to receive a permanent definition for the same reason. We have had, *ad infinitum*, presented to us the federative origin of our govern-

ment; and so also have we had shown to us what kind of a government this or that framer meant or believed it to be; but as at last the whole Convention had to unite in passing, and all the states in ratifying it, so too is it necessary that the interpretation and construction of it should pass from party dictation to a general conviction, and thus become the law of the land.

How little the keynotes of parties become leading principles in a country's politics is easily seen in the contradictory part which the main ideas of the Resolutions of 1798 played in the state papers and acts of their authors. Thomas Jefferson speaks in his inaugural address of "the absolute acquiescence in the decisions of the majority" as "the vital principle of republics." Where in the Constitution did he find this rule of action? Mr. Jefferson purchased Louisiana; where among the "enumerated powers" did he get this authority? He expressly states, as a further and last want ("to make us a happy and prosperous people"), "a wise and frugal government, which shall restrain men from injuring one another;" and he says; "this country is enlightened by a benign religion, professed, indeed, and practised in various forms, yet all inculcating honesty, truth, temperance, gratitude, and the love of man; acknowledging and adoring an overruling Providence, which by all its dispensations proves that it delights in the happiness of man here and his greater happiness hereafter." Where is the power given in the Constitution to sermonize in an inaugural? In the Resolutions of 1798 he speaks of the states as "the guardians of their liberties, and of their sister states;" but in the inaugural he presses "the preservation of the general government in its whole constitutional vigor, as the sheet-anchor of our peace at home and safety abroad." The inaugural has been accepted by both parties; the "resolutions" *hardly by one.*

Mr. Madison says in his inaugural; that he was elected by "the deliberate and tranquil suffrage of a free and virtuous nation." He mentions as one of the great principles, which he brings to his arduous service, "to exclude foreign intrigues and foreign partialities, so degrading to all countries and so baneful to free ones." He also urges "the promotion by authorized means of improvements friendly to agriculture, to manufactures, and to external as well as internal commerce;" and further, "to favor in like manner the advancement of science and the diffusion of information as the best aliment to true liberty." How does this square with these words in the Kentucky resolution?—

"To take from the states all the powers of self-government,

and transfer them to a general and consolidated government, without regard to the special governments and reservations solemnly agreed to in that compact, is not for the peace, happiness, and prosperity of these states." In his last message, Mr. Madison recommended the establishment of a *home department*, so as to relieve the department of state of interior business, with which it was overcrowded. Congress declined the suggestion, on account of its supposed tendency "to increase, gradually and imperceptibly, the already too strong bias of the federal system towards the exercise of authority not delegated to it." The last was a cutting *argumentum ad hominem* for one of the fathers of the Resolution of 1798.

But it is not alone in the messages of the authors of the Resolutions of 1798, that we find their spirit set at nought; there are also numerous acts as well as whole systems of policy, that countervail them. The whole Indian policy of the Government rests on *implied* powers. All the Constitution says is: "Congress shall have power to regulate commerce with the Indian tribes." On this clause has been built the whole land system of the United States, as well as land donations and purchases of various kinds. There is absolutely no express power in Congress to purchase lands. The land grants for schools, religious organizations, colleges, railroads, are all surreptitious acts, if the Resolutions of 1798, are the standard. So is the national bank charter which Mr. Madison signed. So is the Cumberland or National road. And it would really seem that the government never existed one hour without violating the Constitution in some way. Did the Fathers really think that they could expand in everything, in landed area, in population, and in wealth, and remain little and narrow in government? We know that they said so, but we know, also, that in fact they did not believe it. And this inconsistency, between profession and conduct, has given us a much less efficient government than we ought to have.

For the theoretic (doctrinaire) minimum of government, we should have the practical, actual minimum of public administration; that is to say, we have less actual benefit from our government, considering its cost, than any of the civilized nations on the earth have from theirs. We have made the buck gardener when we constituted our parties our political guardians; and buck or goat-like they have used their teeth as tools to get forage. And they have made their hearty appetites the measure of the offices and jobs the country wanted. To maintain themselves they needed power, and *it* required feeding, which necessitated again public spoliation and plunder; all by the



consent and co-operation of the people. The democracy of numbers, as Jackson called it, the multitudinous *tyrannis*, as others designated it, like all tyrants, was not satisfied unless it had unlimited power; and when, in 1861, the Jeffersonian method of checking it by state action had culminated in the form of Secession, it pulled, Samson-like, the pillars of the whole edifice over all, and buried the Constitution and the Resolutions of 1798 beneath the debris. Queer! is it not? that the very machinery, for which the Resolutions of 1798 were to furnish the oil, has given us the very thing so much feared by the whole states-rights school, viz.: a power that has proved too much for the states and their people. Dogmatic politics act like dogmatic sectarianism. Having dogmas not subject to objective reasoning, they have to be washed in blood.

In simple justice to Mr. Jefferson and his disciples it must, however, be stated that neither the Resolutions of '98, nor nullification, nor secession are original with them, for movements identical in their premises, but different in form, existed in the colonies, and in all previous American unions. They seem indeed to be inseparable from federal governments, as the history of Greece and Germany indicates. And why? Because when individuals wish to oppose their authorities, they have to combine in some way to make their opposition effective; but people in confederated states have organs ready to their hands for such purposes, and as they are also *legal* authorities, it presents conflicting issues of loyalty, in which plausibilities play most potent parts. Mankind are told; that there can be no divided supremacy or sovereignty, and yet every act in a federal union involves a handling of their minds for the purpose of deciding where, in that case, supremacy resides; and they will, unless they are in a very superior frame of mind, always attribute it to those public authorities that are nearest to them, and are believed by them to be the best guardians of their interests. In federal governments, siding with the states is called centrifugal, while siding with government is named centripetal. But every centrifugal movement is again itself a concentration, and every centripetal tendency is also again a movement from a centre; and we may say: a long-pursued centrifugalism ends in centralization, and a centripetalism, long persisted in, will end in decentralization.

Some outside pressure, such, for instance, as fear of foreign subjugation, may for a time keep down or moderate the ever-existing centrifugalism, and so may apprehensions of foreign aid to interior dissatisfactions restrain an undue centripetalism; but nothing can operate as a permanent safeguard against excessive

aberrations, that always end in open war, than an enlightened mutual understanding, constitutionally recorded and instilled into the public mind. A one-sided or partial understanding cannot answer the purpose, and still less a misunderstanding. Now, it is true, that all comprehensions begin in individual cogitation, and have to pass through partial, and, if you please, partisan considerations; but their aim must be all the time to bring them ultimately to a common acceptance. That the authors of the Resolutions of '98 had this end purely in view, it would be as difficult to prove as to disprove; their acts certainly do not exclude this belief. And we have no right to assume that they were aware, that any partial or separate state interference with a general government erected by all the states, other than that recognized in terms in the Constitution, was a breach of good faith. All that can in truth be said of them is, that they allowed themselves to be carried away by their centrifugal tendency to set in motion a sort of by-coach government, not in the Constitution; and that they fell into a partyism, that became a new centralism and swallowed up the other. Its harmfulness was, that it never could, at any rate never did, lead to a mutual understanding and a common enlightened public will.

We must not forget that Washington, after issuing his farewell address, September 17, 1796, ceased to be an active participant in public affairs, and that he and Madison communed less and less each month thereafter. As Washington's influence, on Madison, waned that of Jefferson increased, but could not entirely obliterate Madison's strong leanings to an effective national government. Madison was an impressible man but not an implicit follower. Mr. Adams never won his co-operation, there being a geographical tendency to alienation beside political differences. With Alexander Hamilton he kept up friendly but not intimate relations. Moreover, Jefferson was his old friend and instructor; he procured for him in Europe much of his reading; and he ultimately associated his public career more and more with that of Jefferson. He was his Secretary of State and understood successor.

Madison's co-operation in the Resolutions of 1798 was essential to their adoption, because he had been one of the framers of the Constitution, and had in the Convention acted with Washington and the Nationals. He had stood outside of the embryo party organizations of which Jefferson and Hamilton were the respective leaders. Madison allayed, therefore, somewhat the apprehensions which Jefferson aroused; and the Resolutions could not have been passed either in Virginia or

Kentucky unless the more conservative members had assurances through Madison's honored name.

The following passage from Washington's farewell address will inform us why Washington never joined in any of the initiatory steps towards the Resolutions of '98 :—

"All obstruction to the execution of the laws, all combinations and associations, under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive to fundamental principles, and of fatal tendency. They serve to organize faction, to give it an artificial and extraordinary force, to put in the place of the delegated will of the nation, the will of a party, often a small but artful and enterprising minority of the community ; and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill-concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans, digested by common counsels and modified by mutual interests."

Were it not that this passage might be misconstrued into a denial of the right of the states and their people to act upon the general government by public meetings, by speeches, through the press, by elections and legislative remonstrances, we might subscribe to it, unreservedly.<sup>1</sup> It was the golden mean, that should have been found between Adams and Jefferson, and then the reconciliation of the address and the resolutions could easily have been arrived at.

Experience, that should be impressive, for its bitterness, has proven to us, that it is not a congenial way to look at the governments of the United States, under the shadows of prejudices, which regard either the federal authority or the states as the special threateners or guardians of liberty. Neither the goats nor the sheep are all in one or the other. Indeed, the whole business of dividing the country into two herds, who cry Wolf! Wolf! at each other, is full of mischief to the country. The same people are in the states, that are in the United States, and the same kind of politicians sit in the halls of Congress, that sit in the State legislatures. The idea that there is any special body of men for liberty *per se*, and that any particular set of individuals meditate tyranny, is a mere partisan fiction. It was untrue in 1798, and it is less true than ever. Monarchists, Consolidationists, Republicans, and Statesrights-men are words (not even names) that are bandied about ; but they fit

<sup>1</sup> Fred Kapp, in his book on America, ascribes this purpose to Hamilton when he wrote this passage for Washington.

nobody, just as well as everybody; because we have known monarchists in America, who believed themselves to be republicans; and consolidationists, who could not say five words without mixing states-rights in them. By far too many of our American politicians are, what they are, from their lips out, and that only for the time being. They are everything by turns, and nothing long. It is true that the old federal, and its successors the Whig and Republican party, have sinned oftener in endowing social forces with political power. But this their tendency to use social administration (corporations embodying great private interests) as public or semi-public organs, for political ends, is one of the peculiarities of the age, that was caused by the efforts to dispense with regular public authorities and functionaries, which were believed to be ways to gain liberty. The school of Jefferson and Jackson drove many persons to corporations, because their war-cry, that "that government is best which governs least," prevented the organization and establishment of public administrative authorities to a degree that would, if corporations had not been improvised, have stopped public improvements and the credit means believed to be needed for them. The federalists were too subservient to corporations and their great monied interests; the democrats too repulsive and too little appreciative of their value, as interpolitical mediums, or half-way houses between social wants, and their ultimate satisfaction by full political organisms.

When General Jackson in 1832 had to act upon the doctrine of nullification, he used these words:—

"No one would make greater personal sacrifices or official exertion to defend them (states-rights) from violation, but equal care must be taken to prevent, on their part, an improper interference with, or resumption of, the rights they have vested in the nation. The line has not been so distinctly drawn as to avoid doubts, in some cases, of the exercise of power. Men of the best intentions and soundest views may differ in their construction of some parts of the Constitution; but there are others, on which dispassionate reflection can leave no doubt. . . . Our Constitution does not contain the absurdity of giving power to make laws and another power to resist them."

The General also ridicules the proposition that states can exercise authority, over the Government of the United States, not given in the Constitution, in these words:—

"Congress is composed of the representatives of all the states, and of all the people of all the states; but we (meaning the nullifiers), part of the people of one state, *to whom the Constitution has given no power on the subject*, from whom it has expressly



taken it away,—we, who have solemnly agreed that this Constitution shall be our law,—we, most of whom have sworn to support it,—we now abrogate this law, and swear, and force others to swear, that it shall not be obeyed!”

Thus Jackson found the golden mean between Webster and Calhoun.

We need not extend these remarks, especially as we shall devote a special chapter to the question of secession. Between 1798 and 1832 were thirty-four years and five presidents; between 1832 and 1862 were thirty years and ten presidents. During all this period the questions, discussed in the Resolutions of '98, have been open sores upon the body politic; they remain so to the hour in which we write. Both very sincere and very insincere great men have written upon them, and still the sophistries of both extremes have, respectively, the upper hand! There must be, then, an inherent difficulty in the institutions of the country and the political temper of its people; and it can be no other than the impossibility to draw those precise lines, on one side of which it is to be declared proper for the general government to transact the public business, and on the other, the states, which agitators are for ever insisting upon. It seems to us wisdom to accept that impossibility; but to resolve, at the same time, that we will meet each question as it arises, as becomes an enlightened and patriotic people; and that we will neither *deny* nor *give* powers to the federal government or to the states, from one-sided admiration for either. *Then* will St. Simon's words at the head of this chapter cease to be a correct description of American politics, because, though we shall then have an endless crisis, we shall also have a continuous adjustment; in other words, we shall have the will and the power to abate it as fast as it rises.

## CHAPTER X.

## AMERICAN PARTIES.

"All things are jests, are dust, are nought,  
For nothing happens as it ought."

—Greek Motto.

WE may doubt, yea reverse this motto as a general proposition, but it is true of our political parties. They have turned our constitutions into jests, our administrations into the dust, and our reforms ever end in nought.

It was and is believed, that American party organizations were not only free-er in themselves, but also more conducive to freedom than parties were elsewhere; and they were looked upon as excellent schools for learning practical politics. The truth is: they have brutalized the public mind; and envenomed citizen against citizen; so have they rendered nearly impossible the election and appointment of good men; and are at this time a mere convenience for office-seekers and jobbers. In lieu of being each the *alter ego* of British parties, which would not be saying much of them, they evolve neither great men nor great measures; which their prototypes certainly do. And they are therefore mere vexatious machines, that as often confound those that handle them, as those for whom they are run ostensibly. Instead of spreading information on public subjects, they pervert and distort the facts; they are not schools in any good sense; they are largely schools for scandal.

The reasons for this comparative inferiority are not far to seek. Parties in Great Britain and Ireland are historic in their origin, and they have ever had, and have now, actual concrete public issues to deal with. The invasions, as well as the degrees of submission to the conquerors, and consequently the re-establishment of social order and a, permanently possible, political rule, have there given to the governments and the governed public habits, which, if not virtuous in a high degree, were wisely intelligent. Here the questions were generally fictitious; the tyrants fought, and the deliverers from tyranny were largely

creatures of imagination ; and the real evils and misrules that should have engaged public attention were either too concealed under a present material progress, as to escape observation, or they were caused by popular conduct, which everybody was afraid to question. Voting placemen into or out of office is a very different occupation from voting ministries, with defined public policies, in and out. It was for that reason a sad mistake to start parties in the United States upon the idea, that they must necessarily be similitudes of the Whig and Tory parties in England, or even to suppose, that those here had or would have similar functions. Our parties' task was for a hundred years to organize government ; theirs to make it fair to society.

Washington knew, that parties originate and live on personal ambition, and that they could be good only as servants of the commonwealth, never as its masters. He also understood, that the establishment of the Constitution of 1787 was doing for the Union what running a ship into port is, and that it was an escape from wrong embryo parties, that were about to form and prevent union and government. Whether he was conscious of the fact, that his presence was the chief obstacle to partisan organizations, in the good sense in which true kings and men of virtue and genius prevent parties, we cannot tell ; he never expressed himself on the point. But his fixed determination not to be the crusher of parties, in the sense of Sylla, or Marius, or Cromwell, or even the Medici, is so apparent in all his conduct, that we must presume him to have had the true model in his mind. We regard, however, his refusal of a re-election in 1796 and the issue of his farewell address as a confession on his part, that what he expected to accomplish by drawing around himself the quinquvirate (if we may coin the word) of Adams, Hamilton, Jefferson, Knox, and Jay, was not secured, and that parties would be formed that would vex society. He did not repeat what he said in his first message, to wit : " I behold the surest pledges that no local prejudices or attachments, no separate views nor party animosities, will misdirect the comprehensive and equal public eye which ought to watch over this great assemblage of communities and interests."

Parties were forming before his very eyes, and dividing on the degree of power suitable for an American Executive ; on the maintenance of public and private credit ; on money ; on war claims ; on the treatment of the so-called Loyalists and their landed possessions ; on the disposition of the public lands ; the organization of the Treasury and its revenues ; and last, not least, on our foreign relations, especially whether America should be philo-French or philo-English. And the leaders of

these parties were either in his Cabinet, or in the Vice-Presidency or the Supreme Court, and gathering adherents more or less openly. He did his best to be a true chief magistrate, that harmonized conflicting interests and antagonizing ambition; but he had to take sides on the national bank question, on the funding system, and on the European complications between England and France; and he must have seen that Adams' friends were only waiting for his retraiacy to private life, so as to take the offensive against their opponents more openly; and that Jefferson and his friends were anxious for this event, so that they might denounce more unreservedly the actions and designs of Hamilton, Adams, and Jay, or, as it was called, the Federal party. Jefferson and Madison called their party "Republican." It might have expressed the issue truer, by calling it: "The South *versus* the North-East, with the Middle as umpires."

Washington feared, of all things for his country, most, that the then party status of England, introduced by Walpole in 1735, should get a foothold here. He despised the idea that statesmanship should buy itself into, and hold on to power, by subsidizing venal men. Perhaps he feared that Hamilton did not share his aversion to that sort of public administration. Hamilton certainly did not; he believed, that as long as public affairs were efficiently conducted, the minor means might be a little unclean.

Washington's mother had given him, and read and studied with him, Sir Matthew Hales' writings; and Washington's way of forming a party was not to found a school, or to organize an irregular by-coach to regular government; but to furnish in his behavior and character an immortal example; it to be a beacon-light to good public men and a standard by which to condemn bad men. And that example was to be so squarely practical, that no honest and wise man should have any difficulty to follow it. It was not his fault that partisans manufactured a Washington, a superhuman figure, of which the presumption grew up, that it was never to be repeated, since to do so appeared impossible. And thus neither the model President down in writing in the Constitution, nor the one that Washington personified, have become models. In their place have grown up presidents, who are the chiefs of party, the heads of sectional animosities, and the boon companions of party tricksters and jobbers.

Washington could therefore write into his farewell address: "There is an opinion that parties, in free countries, are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This, within certain limits, is prob-



ably true ; and in governments of a monarchical cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched, it demands uniform vigilance to prevent its bursting into flames ; lest, instead of warming, it should consume."

But who else, then alive, could have written these words and believed them ? To whom else could the country entrust the chief magistracy, without placing beside him some political power to guard and, if necessary, to check his policy ? All the world knew that he possessed the confidence of the country, and that he deserved it. A vote of confidence by Congress could not add to the effectiveness of his actions ; nor would a vote of a want of confidence have changed the world's opinion. And this is the reason why the defect of the Constitution, that of not providing for current and regular co-operation *in* or counteraction *to* presidential policies, as circumstances may require, was not then corrected. The Senate may reject appointments *after* they are sent in, but, *as a body*, it is not consulted in the formation of the presidential judgment. Hence clandestine private consultations and intrigue. The House may impeach and the Senate may try the President, but this is *after*—punishment, as useless as it is dangerous. It is similar, but not quite so bad, as to treaties with foreign powers. But where is there any power to secure *present* responsibility upon the President or his Cabinet before or during the precious moments when a public policy is about being formed as to current events ? That there is a habitual desire for such a power, and that, in a very lame way, it is exercised by the Cabinet, we do not deny ; but surely it is not squarely, plainly, and wisely given in the Constitution, nor has the defect been corrected since.

There is, however, another aspect of this constitutional defect, which we must now notice ; it relates to the false position in which our Presidents are placed in regard to public policies. As situated now, there is neither an ever impending responsibility nor the right kind of consecutive support. The President must, through his Cabinet, originate and prepare public policies, and it is right that herein he should be entirely free ; but the moment they are to be put into operation he should have the co-operation of Congress. And that is not, and cannot be had

properly, unless the two are brought into mutually confiding relations. Two ways have been pursued for this purpose. One is for the Cabinet to dissolve the Parliament with which it cannot agree, and appeal to the country; the other is, for Parliament to appeal to the executive chief from his Cabinet, and to obtain from him a new Cabinet with which it can co-operate. With us neither course is open. We have a President, whom we can depose by impeachment and try for *acts done*; but neither House can interfere with him or his Cabinet before and during the initiatory steps. The President is neither bound to communicate his intentions, nor to keep Congress or its committees advised of the progress of a policy. We have then, so far as *acts done* go, no such legal fiction as Great Britain has; viz: that the king can neither meditate nor do wrong; but we have it, by silent consent, as to public policies in progress. We can shut the stable after the horse is stolen, but Great Britain can do it before. The Convention acted on the idea, that with a four years' term of office, and by the aid of writs issued by the courts, this, as to time, abbreviated monarchism would be safe. But General Jackson's administration and the organization of standing parties, held close in hand by Presidents and their Cabinets, through arbitrary partisan appointments and removals, have by this time shown these anticipations of the Convention to have been a fatal delusion. And we have no doubt, that if the Convention were to meet to-day, and had again to choose between *after* checks, such as impeachment, confirmations or rejections of appointments and treaties, and refusals to appropriate moneys for accomplished acts; and a preventative, running and ever impending right to hold the President responsible and controllable through his Cabinet in his current conduct and policy, they would choose the latter, even if the logic of the choice involved a presidential term for ten years, and an immunity from impeachment of the President himself, as long as his acts needed the counter-signature of a responsible Cabinet.

This qualified power of Congress over the current conduct of the chief magistrate through the responsibility of his Cabinet is, in fact, of more importance in the United States than in England, because we have a *written* Constitution. All such instruments are open to constructions, and ours particularly so; because neither school of American politics attained a complete victory in our Constitution. Both looked, therefore, to some future stretching of the document towards their side. The one wanted to make it a perfect *Union State*, the other a pure *States Union*. Both labored and are laboring for an impossibility;

and it is well that the Constitution sanctions neither. Our two parties had, however, each its adroit dialectician, viz: Hamilton and Jefferson; and they were such splendid controversialists, that not a single one of their disciples ever equalled them. We have since gone lower and lower in hair-splitting. It began, much to his annoyance, in Washington's Cabinet. He tried to mediate between Jefferson and Hamilton. After 1792 Jefferson retired, and he describes what followed in a letter to Van Buren, June 1824:—

“General Washington, after the retirement of his first Cabinet and the composition of the second, entirely federal, had no opportunity of hearing both sides of any question. His measures, consequently, took more the line of the party in whose hands he was. The measures were certainly not approved by the republicans; yet were they not imputed to him, but to the counsellors around him; and his prudence so far restrained their impassioned course and bias, that no act of strong mark, during the remainder of his administration, excited much dissatisfaction.”

Jefferson's letters to Monroe, Madison, Giles, and others, written during Washington's second administration, show his great anxiety to construe into the Constitution some authority for the House of Representatives to interfere with any presidential policy, which it disapproves. He says in a letter to Monroe, March 21, 1796, speaking of Jay's treaty:—

“The House of Representatives, as one branch of the legislature, are perfectly free to pass an act or to refuse it, governing themselves by their own judgment, whether it is for the good of their constituents to let the treaty go into effect or not.”

We might quote numerous other expressions which indicate how he then felt the necessity of bringing the House into line for changing, or rather for influencing, the policy of Washington's Cabinet. The country owes the Resolutions of '98 to the absence of such a provision; for during Adams' administration the situation became seemingly intolerable.

In a letter to W. T. Barry, July 2, 1822, Mr. Jefferson discussed the relation of the Supreme Court to the government and the people. He charges, that it is “advancing with a noiseless and steady pace to the great object of consolidation” that “impeachment is not even a scarecrow.” He wants the “appointments of judges to be for four or six years, but renewable;” and says:—

“We have erred on this point by copying England, where certainly it is a good thing to have the judges independent of the king. But we have omitted to copy their caution also,

which makes a judge removable on the address of both legislative houses. That there should be public functionaries independent of the nation, whatever may be their demerit, is a solecism, in a republic, of the first order of absurdity and inconsistency."

True every word of it, so far as it advocates ever ready and ever present responsibility, but false throughout, so far as it sees any real responsibility in short terms of office. Is a lifetime of irresponsible power, broken into—ten or more—terms, as safe as a lifetime of responsible power in one unbroken term? Is not the shortest term of irresponsible power more dangerous than the longest term is under constant responsibility? And what is more: is it not true that the ever impending responsibility over a court is not half as necessary as it is over a President and his Cabinet? The former has no policy; the latter has; and that is all-important; because in a policy the whole country has a right to be consulted, while in a court's decision nothing is to be weighed except the facts and the law. We have seen how ready Jefferson was to strain the power of the House over treaties, and yet he never suggested a much more feasible mode, viz: the one that can jeopardize public interests only very temporarily, but may save them just in the nick of time; that of exercising a control over the President's Cabinet subject to an appeal from it to the House or the country. Why Jefferson never proposed this? is explainable only through the fact, that his mind was occupied by what he regarded as a much superior method: that of using the state legislatures backed by a standing party for this purpose. We have discussed this action of his in another chapter, that on the Resolutions of '98, and can only say here, that out of it grew the doctrine of the right to instruct senators (long since abandoned), and that direful double necessity in our politics, to wit: that a party must have its leader in the White House, and that the President must have a party over the whole country; and that whenever this conjunction does not exist, it means weakness in the country's statesmanship.

Adams was really not the leader of the Federalists! That mantle fitted only Hamilton, and afterwards Webster. It has not had any since. The history of the Federal, Whig, and finally Republican party is therefore but a record of prevarication as to men and measures; it has never been true to a principle for *its* own sake, though it has pursued many for party's sake; and that is the reason why it fell in 1800, and why it has ever since been feeble and begging issues even in the hour of its triumph. It is still without a true leader.



The Republican (afterwards Democratic) party had a decided advantage in having, from the start, a congenial leader in Jefferson, and he the President. He made it feel as if it were marching at the head of modern progress. But fifty-six years afterwards, when under Buchanan, it had no congenial leader; it felt as if it were marching at the tail of civilization. We place these extremes together to bring before the reader's mind, most forcibly, the entire reversion which parties undergo when they change, from being the educatory political organs of society, to being the mere instruments of personal ambition or pecuniary covetousness. Jefferson had imbibed, besides Locke's, Berkeley's, and Bentham's philosophic modes of thinking, those of Beccaria, Condillac, and other French and Italian philanthropists. He, and his party through him, were therefore in accord with the moderate French republicanism; and it was but the logic of the situation, that the clergy, and its orthodox sheepfolds, regarded Jefferson and his followers as dangerous to them. Equally so was it natural, that all those, whose power over society was in possessions and possessory rights, should mistrust him; for Jefferson was for freeing labor and thought. His two inaugural addresses were masterpieces of that kind of diction; for they inspirited his party and toned it down at the same time. They quieted also many apprehensions that Jefferson meant a republicanism and federalism incompatible with the social and political order of Anglo-American constitutionalism. In fact, it was an adroitly executed change of front and rearrangement of the partisan forces. His Cabinet—Marshall, Madison, Dexter, Parsons of Massachusetts, Granger of Connecticut, Smith of Maryland, and Albert Gallatin—had but one (the last-named) person in it that did not give assurance that the extremer doctrines of the Resolutions of '98 and of French anti-religious propagandism, would not be pushed. The party lost its fire and ardor by this change, but it became a much more workable body in American politics.

What the party did not see and Jefferson perhaps did not intend, was the fact, that while this additional political and extra constitutional organization supplied a deficiency—that of securing continuity to the policies of the President—it gave to the party itself neither an initiative nor an advisory, and still less an arresting power, through some regular organ in the government. The theory and the practice was, that the President and his Cabinet were not amenable to Congress or any other public bodies as to their policies; that the only way to reach either was by impeachment, rejection of nominations and treaties, or refusal to vote supplies, *id est*, an appeal to the

next election. This, to a people accustomed to British methods, was more than losing a habit; it was the deprivation of one of the means for securing a well-balanced political conduct of government. The purchase of Louisiana, the arraignment of Aaron Burr, Genet's expulsion, the decided anti-English and pro-French foreign policy, were all measures, in which the party was but little consulted, and for which its support was expected as a matter of course. But, however docile the party was under Jefferson, it was less so under Madison; and when Monroe succeeded, there was peace on the surface, but serious unquietness underneath. The party desired to know, where it was being taken, and it wanted to have something to say as to its own destiny and that of the country. From this desire began, between 1816 and 1824, the party policy of having a declaration of principles and intentions, before the election, which we now have, in a very intense form, in the preambles and resolutions of our conventions. Need we say, that the whole thing is a miserable substitute for a much better thing, viz: an ever present, ever acting, and ever impending public consciousness, so that the whole government is at all times under full responsibility. No human being, howsoever great a genius he may be, can predetermine events, and, of course, a party can do it even less. But a government or administration, yea, even a party, may have its forces in a state of readiness for almost any emergency. A government under full responsibility, if well officered, can do this; a government bound by *ante*-pledges and foregone conclusions, cannot. And that is what's the matter with our politics to-day. The people are fed on verbose promises, which embarrass the government and deceive the people.

We cannot justify the accusation made by Jefferson's opponents, that he knowingly and purposely inaugurated in America the abuse of political power for self perpetuating itself, through appointments to and removals from office; but we must say that he never corrected it properly when he attained the Presidency. He must, therefore, be held responsible for the gradual transformation of his party from being first a body of men that were guided by principles, and then degenerating, slowly but surely, into a mere spoil-hunting *cabale*. He knew that the English Government was then administratively weak, because venality had penetrated it; and he had felt chagrined, when Hamilton and Adams introduced it here. Why, then, did he not, after he was elected, set an example by appointing a commission of inquiry and ejecting from office unceremoniously all, subject to his removal, that had been

appointed for partisan reasons? And why did he not institute methods for trying the qualifications of all candidates by prescribed standards? He did make removals, but he made them arbitrarily and then offered as an excuse for his arbitrary party appointments, that he wished to restore some *equilibrium* in office-holding between the two parties. The very word shows how low and how false Jefferson's standard of the public service was. It was a distributory process, one equal *per capita*, without reference to what the *capita* contained, or what moral motives regulated their hearts. And yet this Jeffersonian standard is the utmost height to which even the more impartial Presidents have risen; and the chief magistrate now occupying the White House prides (*sic!*) himself on this species of liberality! And an infatuated nation is satisfied by this *soupe maigre* of civil service reform!

Had Jefferson been (what he believed himself to be) the medium of the public mind for forming an intelligent, virtuous, and wise public will, he would have led his party to a discriminating judgment as to the public service and its officials. He would have found the line where personal confidence (you may call it favor) was the main consideration for removals or appointments, and where it was not. And having found it, he would have provided for the rest, suitable ways for entering and for the deserved promotion in the public service. Jefferson yielded ungraciously the army to such a system, and he chafed at a public opinion that would not let him remove from the bench what he called "the midnight judges." And we must say, therefore, we owe to him the fatal presupposition in favor of mere *per capita*, universal qualification for office. He stood in this respect even lower than his predecessor; for John Adams, partisan as he was, had an innate admiration for an efficient administrative officer, and a pronounced contempt for filling vacancies in office with empty heads and corrupt hearts. As an *administration*, Adams' was the better presidential term.

Hamilton's death, so soon after the demise of Washington, was an untoward event in many respects, but in none more so than the change it made in Madison's relations to the two political parties. The latter was the most impressible, but also the most discerning of public men. His education was Jeffersonian, but his practical judgment was Hamiltonian; and this kept him from being the implicit follower of either of them. Being a Virginian, he was *à priori* inclined to Jefferson, but also to Washington; and it did not escape him that the latter was, in nearly every case where Jefferson and Hamilton differed, on the side of the last named. It had thus become second nature

to him to obtain upon all public questions, the opinion of both these leaders, and to ask himself which was correct. Inevitably he thus became the critic of both, and then came the conviction that neither was entirely right or entirely wrong. With Hamilton's death, Madison relapsed again under Jefferson's exclusive influence; he became his Secretary of State, and was thus designated as his successor in the Presidency as well as the leadership of the Republican (Democratic) party. He continued Jefferson's policy, and let it be understood, that he was inspired by him; and that brought, as certain as gravitation, the war with England in 1812. The New England portion of the party opposed *it*; and with the old charges of their being (in secret) British "loyalists" in 1776-86 and anti-republican in 1796-1800, as supporters of the alien and sedition laws, there now mingled new charges of disloyalty to American freedom. The federal party broke down under this threefold weight, and disbanded; but the party in power little dreamed that this disbanding of its old foe meant its own disintegration. A party cannot live on self-admiration alone; it needs something it can hate.

This disintegration occurred, however, in the old way, that had, as we have stated, been the way of British politics from time immemorial; to wit: the disbanded federalists joined the victorious party, did homage to it, and soon it had no object left except to apportion the public offices and contracts (partly to their new friends). After the second charter of the United States Bank had been signed by Madison and the tariff of 1816 had been passed, it would have taken an expert (in drawing a line between tweedledum and tweedledee) to have found a clear distinction between the two schools of politics. They were all paper-money men, all bank men, all tariff men, all for internal improvements, and all candidates for office. Had Hamilton lived and he would have smiled at the irony of events, that made the party, opposed to him, carry out all the leading measures of his mind, but he would have been chagrined at their lame way of doing it. Jefferson, who was then still alive, pouted a little, but kept his chagrin to himself; for the party had outgrown his leading-strings, and if he had raised an outcry, it would have disorganized the party, thus adding death to disease. He dare not do this, because then already it was a greater misdemeanor to jeopardize the life of the party, that was the bread-basket for so many, than to abandon all its principles. Jefferson had to find that a party that is not so constituted as to have *in* the Constitution a clearly-recognized position, with a right to operate through regular organs, that are a part of the government; that such a party will eventually be mastered by



its sordid and selfish elements, and forget all its principles, amidst the enjoyments and emoluments wrung from an over-confiding people. Parties that rest on but two eyes, even if they be Jefferson's, have a most precarious existence, because they are efficient only while their founder holds the reins.

During Mr. Monroe's eight years the tendency, to make party interests paramount, became stronger and stronger. It was called "the era of goodwill;" in reality it was the wide opening of the doors of the dominant party to all who would forsake the other in consideration of getting an office. Of course, only those availed themselves of it, who really never believed in Hamilton's sharp-edged politics; and these deserters were so numerous and so forward, that to talk of or to insist on pure Jeffersonian ideas would have been like talking of the gallows to the son of a hanged father, or to insist upon strict justice to a prisoner at the bar, who knows he is guilty. Common decency required of the Republicans (Democrats) to keep silent as to their old war-cries. The same thing was repeated between 1852-60, after the Whig party had disbanded and whole battalions of them had passed over to the Democrats. In all such cases the soft condition of the party, which thus becomes the political *omnibus*, invites the more impudent of the new adherents to abuse its confidence and to introduce their old heresies under new forms. If the party swallows them, it is proof, that both the original object of the party, as well as its discipline have departed, and that it has become a public nuisance. If at such a time a public question like the admission of Missouri confronts such a party, it is unable to find either the principles by which it should be guided, or the leaders that would work them out for them. Then there are nominal architects, but no rules, squares, plummets, or models, and Jefferson's similitude to an "alarm bell rung at midnight" becomes true, for then there is a rude awakening from a heavy sleep. The Missouri question was compromised in 1820-21; that is to say, the ruling party admitted its incompetency to govern the country. It also consoled itself about that time with announcing the Monroe doctrine—a vaulting threat from empty premises! Or was it wise to declare to the world, that we can decide questions for all America, while we could not settle one among ourselves? In short, the Republican (Democratic) party was rapidly verging into the condition when it could not find its leader nor a leading principle, and when, if it had accidentally found them, they would have been of no use to the party.

In that condition was the Republican (Democratic) party when it entered the presidential campaign of 1824. It was

then the *sole* party! How easy the step to drop the party and be the country! Why was it not taken? Partly because the inveterate party habits had taken deep hold of the public mind, but in the main from political necessity. The President, as the Constitution and American practice made him, still had to be elected by a party. And he still needed a party after the election; for the constitutional defects already mentioned, remained uncorrected, and the people were not yet supplied with a regular legal mode for having an influence on, and power to strengthen or to check, the current conduct of the President. There was, therefore, a necessity for improvising something that would serve in lieu thereof, and the most natural thought was, to *pre-determine* the public policy by electing a President, whose views were known, and who would while in office have to follow his announced programme and lean on his party. That there was a delusion in this mode, because no President can tell beforehand the exigencies which he will have to meet, is now clearly apparent to us, but it was not to the generation of the first quarter of this century. They took especial pains to ascertain the political proclivities of the half-a-dozen candidates that were before them, and they all answered, as to public measures and their purposes in composing their Cabinet, except *Jackson*. He declared as to the latter point that, if he thought his right arm knew whom he would make his Secretary of State, he would cut it off and throw it into the fire. The Secretary of State was so important, because it was then regarded as the line of safe precedents that he should be the successor. The true ground, that all such attempts at foreknowledge were mischievous forestallings of the policy of the country, was taken only by a few who had not the popular ear. And they were overheard amidst loud vociferations for the *Government of the People*. Each candidate, therefore, promulgated the views which he thought likely to win him the Presidency—Crawford in the orthodox party style like Buchanan afterwards, John Quincy Adams like a *Lord Bute*, Clay as voluble as *Thiers* in our day, and *Calhoun* like an ancient *Cato*. Clinton was the understood leader in public improvements, for which Jackson professed an equal zeal. Before 1830 all their epistles and speeches read like intended deceptions.

There were then, including the President in office, four living Presidents—Jefferson, Adams, Madison, and Monroe. Why none of these warned the people against party folly is a marvel to us to-day. Adams' son being a candidate, it sealed his father's lips; his own party being utterly ruined also kept him from interfering. Monroe was restrained by his position and

relations to the candidates; but Jefferson and Madison were under no restraint from telling the people the square truth. We cannot for a moment countenance the suspicion, that they would either have shrunk from avowing anything they held to be true, or that they concealed it from sinister motives. There is, then, no other hypothesis tenable except the one, that something in their minds prevented them from seeing the full truth. And we assume this to have been the case for good reasons. Both were wedded to the conception that "the Whig and Tory parties were those of nature;" that "the Federalists were the Tories of America;" and that "the Hartford Convention, the victory of New Orleans, the peace of Ghent, had prostrated the *name* federalism, but that in principle it still existed." "The Tory fears the people; the Whig cherishes them." So said Jefferson, and added: "The Tories are for strengthening the executive and general government; the Whigs cherish the representative branch and the rights reserved by the states, as the bulwark against consolidation, which must inevitably generate monarchy." These passages, taken from a letter to Lafayette, November 1823, exhibit, how impossible it was to men, resting on these premises, to see the consolidation there was, by 1824, in a government, in which a President, elected by a party, held the reins, uncontrolled and unchecked and uncheckable by Congress for four years. A party must instinctively feel the insecurity of such a state of things, and must therefore try to tie up the President by promises before nominating and electing him. Both Jefferson and Madison could and did see, that a federalist at heart was a federalist even after he joined the Republican party; but they could not and did not see, that a President was very likely to be elected in 1824 whose republicanism would last only until his inauguration. Of what value is, and what guarantee gives, a nominal party fealty in a President, who steals into the party sheepfold designedly, and who, after the election, controls all the venal of the party through his patronage?

The whole conception of a natural division of any population into Tories or Whigs, Loyalists or Radicals, Federalists or Republicans, Aristocrats or Democrats, is an arbitrary assumption. Possessors of wealth will want it protected, and they will oppose arbitrary interference; and those pursuing riches will want liberty in their pursuit. The difference arises from social circumstances, not personal natural disposition. So, again, the trader lays stress on having all the means for an interchange of commodities, such as roads, credit, &c., in the highest condition, because these increase his profits. The real estate owner wants

population to grow more numerous, for therein lies the increase in the price of lands and lots and his rents; and he favors immigration and would have emigration checked. The working man who lives from wages, wants opportunities for employment multiplied; for demand for labor augments the rates of remuneration. But in the United States these subdivisions have never existed as permanent social classes, and there has never been an individual in them, whose interests were all his life exclusively in the one or the other. Electing presidents for the purpose of producing more ups and downs in the country, or to organize parties with a view to accelerate the revolutions of the wheel of fortune, is, in American politics, what carrying coals to Newcastle is in England; it is simply adding political discord to social disharmony. All men are but too much predisposed to be tyrants: the way to prevent this respective inclination from becoming an annoyance, is not to give him power; it is to teach him the sense of right and justice, that measures rights by duties and duties by rights. Away, then, with all these imagined distinctions in our society. There *are none*, and it is wrong to conjure them up before they exist, as if some men were predisposed to rule and others not. The whole thing is a fiction.

The Republican (Democratic) party persisted—1824—under the advice of Jefferson and Madison, in using once more its old machinery in congressional nominations; but it was so moth-eaten, that on the nomination of old *Crawford*, the younger members of the party—Clay, Adams, Jackson, and Calhoun—did not hesitate to abandon it, and the result was a presidential scrub race between Jackson, Adams, Clay, and Crawford with Calhoun as general candidate for Vice-President. Congress had to be brought in to decide as to President, none having a majority of electoral votes; and John Q. Adams was chosen by the connivance of Henry Clay. This was a most fortunate issue for the Republican party, for it was thereby in effect relieved of two ambitious men, Clay and Adams, sure to be dangerous to its peace. It transferred them to the now revived federal—soon to be called Whig—party; and Clay's and Adams's presence in it prevented that party from ever having their true leader *Webster*, and induced it to change its name several times besides. What would Jefferson have said to this *Tory* appropriation of the name *Whig*?

Up to this time parties moved through the regular public organs, such as state legislatures, governors, Congress, and the President and his Cabinet. Their leaders were men in public positions, with lieutenants in the press and on the stump; but thenceforth each party, the Jackson men



first, organized, as partisans, outside of all official routine, and soon they had national, then state, and finally municipal conventions with corresponding executive committees, all rather disorderly and inorganic. Each party had also fiscal and financial schemes as to revenue and expenditure; all resting, in one way or another, on *Uncle Sam's* and other public treasuries. Every step towards the consolidation of this, outside political power, met with inner aversions, but they were overcome by sophistries. Intrigues were extensively used in both parties. Under Jackson *the* ruling party was, if the figure be allowed, a militia led by a hero. With Van Buren it began to be a pretorian guard, treacherous to its self-chosen leader; and it has now become a standing army, that subjects the best interests of the country to its grovelling desires.

The administration of Adams and Clay never could shake off the accusations of bribery and corruption, which were pertinaciously hurled at them, but which had really no foundation, except the incautious conduct of these gentlemen. So Jackson, who was really the people's choice in 1824, was elected in 1828. He had many qualities for the position, but, like Cromwell, he lacked the culture and manners that could make his government palatable to the refined classes of society. Jefferson could do this, and his election (1800) was acquiesced in, for that reason, if not approved. That of Jackson was bitterly opposed by majorities in both Houses of Congress, especially after he showed himself as the reviver and leader of the old Republican (Democratic) party on all the old leading questions. He never hesitated to use all and every power given to the President for the furtherance of the principles of the rejuvenated party.

His state papers did more to educate the common people than any previous public documents. The party regained its vigor; and if the well-understood intention of Jackson to have for successors, first Van Buren, then Benton, Wright, and so forth, with leaders free from sectional bias, each for two terms, had been carried out; and it might have prolonged the life of the party in sound health; and kept down men like Cass, Douglas, and Buchanan. But the defeat of Van Buren, 1840 (by the Whigs), then in 1844, in his own party, revealed the fact that the more the party became a distributing machine of offices and contracts, the more it abandoned public policy to success-hunting at the polls. Of course, those who opposed this recreancy were disliked in the party. As they were the better men, the party passed into the lead of bad men and landed in a quagmire of small politicians. Van Buren was only the first victim of the fatal misconception, that rotation in office could be a good substitute for an educated,

disciplined, and qualified body of public servants. And it ended, in 1840, in the absurdity of hoping for reform from an alternation of parties,—an even more fatal error, because no alternation between bad cooks can give a family good meals. Rotation in office may be so regulated as to bring in fresh energies, but an alternation of parties is but an alternation in party tyranny, or, at least, in a misuse of government. The poet says :

“Stale, flat and unprofitable, is alternation between wrongs.”

We must never forget that American party governments are not constitutional; their title to rule is not derived from law, they rest on force as their legitimation, if legitimation they can have at all.

A Russian statesman said, in an address to the Czar: “Outside of treaties there is no law for Europe except force.” So we may say for the United States, that all government outside of the Constitution, which is but the highest form of a treaty, rests only on force. Our parties are outside of the Constitution, and, unconsciously to themselves, they have ever been sliding towards a more corrupt and also a more violent use of force. The mass meetings, with processions, music, cannon, &c., were but the initiatory steps in the display of forces, the election frauds, and other wrongs, and the civil war of 1861 was the logical culmination. Alternations of parties are but alternations in absolutely wrong procedures.

But the Democratic party did not only turn itself into a mere mutual insurance company for office-seekers and spoil-hunters (*mutual between the bad elements of society*), but it inoculated the other party with the same diseases also, and they became national vices. In the campaign of 1840 money was first lavishly used by both parties (most by the Whigs). Log-cabin processions, torchlights, transparencies, and pageants of all kinds, were then already means to dazzle the people. The Whigs polled the banks, the factories, and every kind of corporations; the Democrats, the office-holders and those who expected to become such. Formerly the orators at public meetings were men like Silas Wright, Webster, Clay, Benton, Grundy, and Marshall of Kentucky. These were, by 1848, pushed aside by the regular stump speakers, of whom a wit once said: “One can hear in their words the money jingle which they expect to get for their speeches.” Here, *in* the parties, was the money power of which the Democrats spoke so much, but ever failed to ferret out. It was the money wrung from the people by false taxation, by bank privileges, exorbitant fees, and assessments for profligate public jobs. Consistent with this was the final result.

It was and is : mark it ! that not a single office is conferred for good reasons, that men are kept out of office or removed therefrom for arbitrary and corrupt reasons. And this is as applicable to townships, counties, cities, states, as it is to the Federal government ! All purchases of material for public use, all employments for the public service, and all contracts are awarded from party motives ! Not even a court can now be established or a judge elected, unless tribute is paid to the dominant party. Not a vote is cast, no public policy formed or pursued, no public step taken, not a newspaper article written, not a speech made, no public career, not even the smallest ambitious aspiration possible, unless one or the other party backs it and supports it. The world has no conception of the tyranny and cruelty this state of things inflicts on the intelligence and virtue of the land !

There is but one political status in history, which at all equals the condition of things that now curses the United States. It was that of the latter part of the Middle Ages, when the *condottieri* were masters of society. But these soldiers of fortune had, at least, military capacity ; their personal bearing was brave, if venal. Our partisans are, many of them, ruffians—true indeed, while it pays, to a cause ; but they sneak in and sneak out in ways that are disgusting to themselves and to those that employ them. They are the only well-defined *class* in this country ; they infect all party movements, rule over our legislatures as lobbyists, control presidents, are familiar with judges, cabinet ministers, governors ; and can and do proscribe the political talent, culture, and integrity of the land. They defeat every reform, ravish ballot-boxes, count in and out, whom they please. Publicly divided into two parties, they fraternize in secret. The voters are their puppets, the abuse of taxation and of public credit their means of support. In such a system, for system it is, there is no room for the only object that justifies a party, that of being an educatory medium for teaching some truth or eradicating some evil.<sup>1</sup> Those who still

<sup>1</sup> With all our aversions to permanent party divisions, we must still, lest we should be misunderstood, quote the following expressions of Burke :—

“ Whilst men are linked together, they easily and speedily communicate the alarm of an evil design. They are enabled to fathom it with common counsel, and oppose it with united strength. Whereas when they lie dispersed, without concert, order, or discipline, communication is uncertain, counsel difficult, and resistance impracticable. When men have no personal confidence, no friendship, no common interest subsisting among them, it is evidently impossible that they can act a public part with uniformity, perseverance, or efficacy. In a connection, the most inconsiderable man, by adding to the weight of the whole, has his use ; out of it, the greatest talents are wholly unserviceable to the public. No man, who is not inflamed by vainglory into enthusiasm, can flatter himself, that his single unsupported, desultory, unsystematic endeavors are of power to defeat the subtle

have idealities in this direction, are like Diogenes of old, walking about in midday with lanterns in their hands, hunting honest men ; but we see no light in their lanterns.

When we had to read of "spiritual manifestations," and of "summonings of the dead" before them, it was always a consolation to us, that we could not believe them to be true ; for what greater anguish could be inflicted on spirits like those of Washington, Adams, Jefferson, Hamilton, Madison, Jackson, Clay, Silas Wright, Webster, Benton, Van Buren, Calhoun, and Lincoln, than to make them visit our nominating conventions, our executive committee rooms, and the conclaves of our politicians ? How bitter would be the reflection to them, that much, if not all of our political ills, are due to their neglect, to establish stable public authorities, or even popular parties and organizations, that could carry on, by the aid of the whole country, and under responsibility to it, a general, well-defined public policy. Hamilton once exclaimed : "A people without a government is a terrible sight to me !" Why did he not go one step further, and say : "A popular party domineering over government, and spoliating society, is the most hideous of all tyrannies" ? Neither Hamilton nor Jefferson, especially not the latter, could announce this truth, because they had the mental habit of dividing the people into two herds, one of whom they presumed to be for, and the other against their beau-ideal of government. They of course wanted the good shepherds of their flocks to govern. Jefferson often asked derisively : "Have we angels in the form of kings to govern society ?" But he never searched his own mind to be certain, whether his presupposition of a natural division of mankind into two parties, the one loving liberty, the other seeking to oppress, did not amount to asserting this angelic prerogative of government for his party of freedom ? No such charge can be brought against Washington's idea ;—that of teaching by example, of doing one's full duty to the present, and of depositing wisdom in solemn state papers, as a possession for the whole people, and for the guidance of the entire nation. We ask the observant reader to ponder well on this distinction, and perhaps he will be ready to reverse the motto that stands at the head of this chapter, and to say with a modern thinker—

"All things are serious facts, events are just,  
They come to men, precisely as they must."

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designs or cabals of ambitious citizens. When bad men combine, the good must associate, else they will fall one by one, an unpitied sacrifice, in a contemptible struggle."



## CHAPTER XI.

*THE PRESS IN AMERICA.*

"The Press is the assay office of Literature."—*Westminster Review*.

WHEN Jefferson declared, that "if he had to choose between a government without a free press or a free press without a government," he would prefer the latter, he begged the question twice, and missed the true point entirely. Both, a government without a free press and a free press without a government, have been impossibilities in America; they were never even probabilities. And J. Q. B. De Bow gave a much better definition in the census of 1850, when he said: "In every country the press must be regarded a great educational agency." But, when he added, "The press constitutes the ægis of American liberty," he used a misleading figure of speech; for the press is a danger as well as a shield; and both for and against liberty, according to the hands it is in, or the mode and manner of its employment. Like all educational agencies, the press is beneficial only to the degree to which it is rightfully developed and organized. The very conception, of either the parties, the schools, the churches, or the presses of a country, being its government, proves a lack of understanding of their true relations to society; for while either may be organs for special functions of government, neither should be its administrative, executive, legislative *and* judicial authorities. Mankind has made bitter experiences on this point with its churches, and it would be a pity if young America were to repeat them as to its press.

Mr. Jefferson shot also wide of the mark, when he speaks only of a free press and not also of a free government. Why chains for the latter, and liberty for the former alone? Is not the freedom due to one due to both? Is not the unfreedom of either the unfreedom of society? We think America has to answer both questions in the affirmative; or it will continue to have a press, that subjects society and its government to its pleasure and profit, and rides

rough-shod over what is called (*sic*!) "the free-est people on the globe."

One obstacle, to a correct understanding of the proper functions and relations of the press, has always been, that the popular mind would comprehend in the word only the newspapers and political journals, and that it left out the books, treatises, pamphlets, and public documents. The remark quoted at the head of the chapter rests on a correcter definition, it includes all publications, and their action, inter and re-action on each other; for only a mutually interacting, and therefore mutually improving entire press, is *not* a public danger! Without this mutuality there is no reciprocal education, but there is sure to be a constant strife for mastery, and ultimately one part becomes the tyrant, the other the plaything. We say then: the press must be free within itself, yet subject to law; if it is to be the organ of freedom for society. And the better this is so, the less need is there for any restraint and correction by public authority, and *vice versa*. The true criterion, then, by which a nation's press must be judged, is not the degree of liberty it *has*, but the degree thereof, which it *deserves*. The state may be too weak in moral force to impose all the restraint it should, and the press may be too weak to resist an undue amount of repression. And thus we see that there may be in this matter false exercises of power as well as abuses of liberty. The happy condition is only there, where they mutually strengthen and perfect each other, and where each is too well tempered, either to submit to tyranny or to impose it. The press creates indeed its own law, but it owes society also loyalty; it must not want to govern, where it should either educate or be educated. The interests of society and its press should ever be regarded as identical, and neither should want to gain wealth and power at the expense of the other, by taking undue advantage of accidental relations. These premises are the standard, by which we propose to discuss the subject before us.

It was a trite designation to call America "the newspaper nation;" but the Irishman who heard it and wanted to know whether the country belonged to the newspapers, or the newspapers to the country, was also in point; and so was the French young diplomat, who, noticing the large number of newspapers, about the hotel of an American ambassador, wanted to know of the secretary whether they were not the real *attachés* of the embassy? Well! we don't know that it hurts us any, to be thought a unit with our papers.

We must have had this theory in our mind when we entered

upon our investigations in reference to this chapter; for we were disappointed to find, that the pilgrim fathers brought neither a newspaper establishment with them, nor did they institute one soon after landing. "The earliest newspaper in North America was the Boston News-Letter, issued April 24, 1704;" so says the Compendium of the United States Census, 1850, p. 154. Think of it, kind reader! A hundred years of prosperous and free white settlement in America without a newspaper! The same authority states, that "in 1720 there were but seven newspapers in the American colonies, and in 1775 but thirty-five; and of these seven were in Massachusetts, one each in New Hampshire and Georgia, two each in Rhode Island, Maryland, Virginia, and North Carolina, three in South Carolina, four each in Connecticut and New York, and *nine* in Pennsylvania. The total was, in 1870, 5871; of which New York had 835; Pennsylvania, 279; Massachusetts, 259; Iowa, 233; Michigan, 211; California, 201; the rest of the states being below 200, Arizona territory having but one. The preponderance of Pennsylvania in 1775 was no doubt due to the presence of *Franklin*—the press educator *par excellence* in America. This is another instance of the lesson culled from history by political science; to wit: "that the centre of public intelligence and power always follows the best educators of a people." It is now in New York, because *there* the press is most influenced by the highest educating cause—"commerce"; for it has the world at large for its lesson-book; and this carries with it encouragement of enlightening authorship.

In 1810 the total number of papers was 359; in 1828, 852; in 1840, 1631. And of the latter number 138 were daily, 1141 weekly, 125 semi-weekly, 227 monthly, &c. New York had then already secured preponderance, but the editorial talent was still largely in the weeklies. They made the politics of the United States, and they were chiefly the recruiting offices for the editorial capacities in the dailies and periodicals. University education, or general culture, were not yet deemed essential for an editorship; indeed, we may say, it would have been rather in the way of editorial success.

By 1850 the census gives us, beside the number of papers and their subdivisions, also the number of annual issues; the total of the latter being 426,500,000, of which the dailies had 235,000,000, the weekly, 153,000,000, the semi and tri weekly, 17,000,000, and the monthlies, semi-monthlies, and quarterlies about 20,000,000; the more solid reading now being about one-fifth of the whole, if counted by the number of issues. But this proportion changes, if we compute the number of houses or families in which the respective papers were taken. The dailies

went into about 750,000 houses; the weeklies into about 3,000,000 of families; the monthlies into about 700,000 families; the semi-monthlies into about a half a million; and the quarterlies only into about 25,000. The largest amount of instruction, as a mere question of quantity, was therefore then still conveyed through the weeklies; and we have no doubt it was also the best in general quality; though the monthlies and semi-monthlies were fully up to the weeklies, in imparting the more substantial mental food. They qualified, we think, more men for public and semi-public life, than all the remainder put together, though it is doubtless true that the largest amount of political reading was still done through the weeklies. We are without data as to the extent of book-reading and other standard instruction (general culture). The census tells us only: that \$15,000,000 were expended upon "the newspaper and periodical department of the press," which would make about \$5 for each family; and we estimate that about three and a half millions, or \$1 per family, were expended on books, of which one-fourth was for Bibles. The census estimate is, "that all the issues of one year would cover one hundred square miles (about three townships); that it would constitute a belt of thirty feet around the earth, and weigh nearly seventy millions of pounds." The great comedian of that period, Thorn, asked, when he read this, "Well! and what of it?" An erudite gentleman wanted to know whether length, breadth, or weight was the criterion? Or the contents and their cultural effect? Is not a Shakespeare, a Goethe, Schiller, Dante, Cervantes, or Cicero daily read and remembered, worth more than all the daily and weekly trash, which the American people read and forget? The question is a leading one, but we cannot now discuss it, for we must proceed with our statistics.

In 1870 the total number of annual issues rose to fifteen hundred millions, which would, by the same calculation, cover a good-sized county, weigh 280 millions of pounds, and constitute a belt of 120 feet around the earth. The total number of newspaper establishments was 5871, of which 574 were dailies, 4295 weeklies, 272 were semi or tri weekly, 96 semi-monthly, 622 monthly, 13 bi-monthly, 49 quarterly. The dailies are about one-tenth of the total number of issues, the weeklies near three-fourths, the monthlies and periodicals about one-eighth. They reach, proportioned to *houses* and *families*, as follows: The dailies two and a half millions of houses, the weeklies about six and a half millions of families; the monthlies over five millions of families. This shows, that one-fourth of all the houses and nine-tenths of all the commercial establishments



take dailies. With few exceptions every family takes a weekly paper, and three-fourths of them take monthly, &c. periodicals. Many houses take more than one daily, and many families take more than one weekly; the exact number we cannot tell. Nearly one-half of the circulation have the political journals; over one-fourth have those devoted to religion; over one-tenth relate to technical and professional information, including here agricultural, horticultural, commercial, and financial. The dailies are now by far the most read, and therefore the more leading papers. They are for evident reasons more cosmopolitan or, if you please, national in their tone than the local weeklies. The sphere of the weeklies is, on the other hand, more localized and narrower in tone. Ever since 1860 they *follow* more and *lead* less, and are evidently losing ground politically. As to religion, it stands the other way. The scientific and more æsthetic journals are increasing; all of which indicates greater demand in two directions, first more and quicker news, and more and higher positive instruction or qualification. The fortunes made in the press have been in this dual direction. There is, however, more *material* wealth for the papers, than there is *mental* wealth for the people.

The popular outlay we estimate, for 1870, as follows (in dollars):—For dailies, twenty-six millions; tri and semi weeklies, one and a half millions; weeklies, fifteen millions; books, monthlies, public documents, quarterlies, &c., twenty-two and a half; or a total of sixty-five millions; of which the dailies receive two-eighths, the weeklies not quite one-fourth, and the monthlies, books, &c., one-third. We estimate the total expenditure for books at fifteen millions, or two dollars for each family. But it must be stated that a large part of this is for professional and technical instruction, and a much smaller ratio, than formerly, for religious books. The political and social sciences are now rapidly gaining in popular favor, though still less esteemed than they should be. Publications of all kinds for juveniles are also increasing in number, and their character is higher than formerly. So, Professor Tucker's observation, made over forty years ago, is becoming truer and truer every day of the press of America; viz.: "In attending to the vast it does not overlook the minute. We meet with the speculations of wisdom and science; the effusions of sentiment, the sallies of wit. The most secluded hermit, if he only takes a newspaper, sees as in a telescope, and often as in a mirror, everything that is transacted in the most distant regions; nor can anything memorable happen, that is not forthwith communicated with the speed of steam to the whole civilized world." Submarine and other telegraphing have since been added, and constitute a

large element of popular education and reading. The telegraphs have introduced into the American daily press matter free from editorial bias, an element that opens up an entirely new vista for the future press. It is attempted to be closed again by special partisan telegraphic correspondences; but the public having tasted the advantage of an impartial news department, will in time demand impartial telegraphic publication as to political information and comments thereon. Some papers have approached the idea, by publishing the speeches of both party orators. They will yet learn that one well-cooked good beefsteak is better than two spoiled ones; and they will seek the preparation of articles written with an eye-singleness to truth, as the best means for popular education. There are in the United States now  $8\frac{3}{4}$  millions of readers, who read but one side of politics, and  $4\frac{3}{4}$  millions who read but one side of sectarian religion; and there are not 1,000,000 who read both sides. And those who read, study, and master scientific truth or public questions, do not number 100,000; and of them the editors are largely in the minority. Of by far the largest number of papers it can still be asserted, that any person that reads *them*, and but little else, for ten years, has gained *no* education, that in fact he will have lost what he had.

We must not, however, forget, over this distressing sign, the cheering evidences of the other tendency, which we perceive through the circulation of the monthly and other periodicals, which, if not all they should and might be, furnish at least much superior mental food than that furnished by presses devoted to sects and political parties. Nor must we overlook the reaction that is taking place in the sectarian party press in consequence of the employment of a higher class of editors in many of the leading journals of the land. The chief impediments, to a general press improvement, are those hebdomadals whose contents are the weekly sweepings from the sensational partisan dailies. Of them specially is true the rule contended for by an Italian professor, that "much newspaper reading is evidence of small general education, and that peoples of the least thorough culture read most newspapers and fewest books."

The pecuniary success of such kind of journals, for whose introduction the Scotchman *Bennet* of the *Herald* must receive all the credit as well as all the discredit, has lately spurred many publishers into a higher order of conduct in their papers, so as to counteract the plethoric newsmongers by solid mental food. The best of these known to us is the *Portland Transcript*. Some partisan journals are also beginning to mingle with their party diatribes educatory and scientific matter.

Another cheering movement is the preparation of special issues, by high-toned city editors, suitable for circulation as enclosures for all country newspapers. These are necessarily free from party topics, and filled with more scientific and æsthetic information. Nor must we forget the beneficial effect the European, especially the English press, has on American journalism. Steam and telegraphs have renewed, in a higher form, the mental intercourse between the people of the two continents, which the American revolution and the war of 1812 had rudely severed. And as the editors of Europe possess higher culture, and those of America more journalistic whim, the intercourse is mutually improving, and our readers need but run their eye over the best editors in America and the more enterprising journalists in Europe, to see, that the first have been learners from their old country colleagues, and the second from their transatlantic contemporaries. This mutual self-cleansing process is making the mere partisan editor, the mere writer of Philippics, the scribbler without talents and culture, more and more impossible in the American newspapers as well as the periodicals.

What the American press still lacks, but is instinctively longing for, is an element in the editorial fraternity, that shall serve it in a similar manner as the schools of Socrates, Plato, and Aristotle did in Athens, to wit: to be "the lights and standards of objective reasoning." Ancient literature is valuable, but it cannot furnish the *current* standard thinking, that makes the best editing of a paper. To have *that* requires writers of cultivated minds. Men like Greeley, Bryant, Bigelow, Raymond, and Halleck have aimed at this for America, but with only partial success, and yet we thank them for it. Whether their own shortcomings or whether those of the people have caused their failure to attain full success, we will not inquire into, because there being, in fact, no national classic teacher in the press, furnishes the explanation. Sectional predilections, the prejudices of political schools, the bane of sectarian suffocations, the obstructions created by—ever talking and publishing religious and political wiseacres; but more than all the seeming profitableness of supplying the public with light reading, and the seemingly presumed unprofitableness of instructive publications, are almost unsurmountable obstacles.

A printing-office now seeks first of all to entrench itself behind some public or semi-public support, such as a party, a church, or a friend in the right position, as to power, may afford. Various enactments requiring publication, court orders, and a general passion for publicity, play, partly legitimately, but

also largely illegitimately, into their hands. A good part is "treasury-pap." Most of it consists of indirect perquisites. This statement may surprise those who suppose that the Government is divorced from the party press and that our newspapers support themselves. Such is, indeed, the theory; but in fact no other business rests less on the law of supply and demand, than our newspaper establishments. The whole system of *public* advertisements is a series of, party and sect, subsidies. The papers are carried through the mail at less than cost; public men and public houses have to take papers they really do not want; mean men receive the services of the press, when running for office; and pay for them by illicit votes after they are elected.

Nor need any one suppose, that we object to the *amount* spent for the press in the United States. No! We are convinced, that we might add, with great advantage to society, seventy millions to the eighty-eight we now expend, provided it were spent for a higher class of reading. Neither should it be supposed, that we do not know and admit, that three-fourths of the information and publication, now supplied by the press, is of an excellent character. What pains us is, that twenty-two millions are worse than wasted; that they actually keep up bad men and low prints, and are *pro tanto* an obstacle to good men and good printing. We foster, by our profligate course, a lot of papers, which, if read by persons for any length of time, spoil their education; and obstruct to the same extent the circulation and perusal of papers which, if they are read for a year or two, would perfect men's culture and be of educatory value to their families.

Everybody must have noticed these defects in the intellection of persons who get their after-school education chiefly from newspapers. They produce similar results as a superficial school education, to wit: they prevent proper mental alimentation and disciplination. They must be counteracted or society is in danger. But, we no sooner direct our attention to this point, than we perceive, that modern society has, particularly in the United States, pursued opposite courses as to these two principal mediums of intellectual development, the schools and the press. The schools we have made public institutions, and we supply them with salaried officers. We have tried to derive from them the greatest good, for all, at the least cost to each, so that they may be the equalizers and liberators as against social inequalities and oppressions. As to the press, we have acted entirely different. A public printing-office, even for Government work, is an eyesore to us; an editor paid from the public treasury we would treat as a byword and a reproach. We



have persistently ignored the fact, that through the press one person can teach all, and that, by it, the knowledge of all can be imparted to every one. And of course have never thought even on the point: how this might be done best and cheapest; much less have we meditated, how to organize the thing for such a purpose. Our apprehensions have not been as to the actual inherent danger of such a universal and omnipotent educational medium, but as to the presumed danger that would spring from any limits and restraints on its use. In the first Constitution written at the time of the Revolution, that of Massachusetts, it is said: "The liberty of the press is essential to security of freedom in a state; it ought not therefore to be restrained in this commonwealth." And then it was written into the United States Constitution: "Congress shall make no law abridging the freedom of the press." And we have been so punctilious as to any limitations of the power of the press, that we have given power to persons and establishments, that had it not in themselves, and increased it without merit in others. We have done this by constituting publishers into federal, state, or city printers, and giving advertisements and other public work to party favorites. In short, in our zest for the liberty of the press, we have neglected the freedom of society and its public authorities.

We may be told that Society has it in her own hands to abate any peril to its free-will; but we deny this and assert that a prohibition of political action, on any subject, is an abandonment of society to the disparities in wealth and power which are ever bred within it. Had we done what we did, with the schools, viz.: left the business to free teaching, but also allowed Government to diffuse in its own way, by schools, wisdom, knowledge, and virtue, Society should have the matter fully in her hands. As things stand the owners of presses have guarantees against Government, society, and individuals; while the latter have none as against the press, except through the exercise of sovereign powers, by altering the respective constitutions. Society may indeed, through its members, withdraw its support from an obnoxious press; but such action involves a trial of social force in which the respective press has all the advantage, even if it is not the medium of a sect or party or class, or the pampered tool of a clique, as most of them are. If, therefore, there is to be fair play, the vantage ground must not be with the one or the other; but there must be an organic authority somewhere that sees to it, that neither society nor the press exercises its power arbitrarily and oppressively. Neither should have an unlimited monopoly; but neither

should, on the other hand, be bound down to unlimited submission; and this free status we get, when we are just as much on our guard against men and things, when they call themselves: "the press," as when they are mere citizens, and at the same time give them their rights equally in both conditions.

There were misconceptions of the functions and consequences of the printing art from the first; and to this day, as one would disappear, a new one would follow, so that we are still without settled rules as to the proper relation of the press to Government, to society, to trade, and to knowledge. To revolutionists it has been the *Savior* of society; to the Church and reactionists, the *archfiend*; to all, whose welfare lay in the future, a *hope*; to all, whose bread and butter and possessions it disturbed, a *terror*; and yet neither hopes nor fears have on the whole been fulfilled. And we have the variety of the misconceptions in a multiplicity of names. Those who thought of it only as the humble successor of the Roman *Acta Diurna* called it "Diurnal" (the name of the first London paper), changed afterwards to the French word "Journal." Those, for whom it was but a news-boy, gave it the appellation of a little coin called "Gazette;" while those for whom it was to be a mediator between heaven and earth, gave it the name of the ancient God of merchants and thieves—"Mercury." And those who felt, that it would be the Atlas of time, named it Tithing in English, Zeitung in German, Le Temps in French. In modern times, when its vocation, to serve trade, became known and appreciated, it borrowed modifications of the word Commerce. And thus we might go on and show in names the ever-changing ideas and conceptions of its character and uses. We instance: "Friend of Truth," "People's Echo," "Citizen of the World," "Tribune," "Phoenix," "Commoner," &c., down to the proverb: "He lies like print." We have often wondered that none have borrowed their idea and name for their press from the *rainbow*, whose variegated colors, suddenness of appearance and disappearance, and multifariousness of surmises, in regard to it, so much resembles it. We are told that the original prototypes of the writers and contributors are to be sought in the old minstrels, the ballad-singers, the poets, dramatists, and play-actors, and we are not at all sure which of the two, the ancient or the modern type, have a right to be offended or gratified at the comparison.

We are told that in England the editors were in early times mainly taken from the stage, and that the masses took from this fact the conclusion that editors, like actors, will play any part for money. That the press is but the junior of the stage, and that our newspaper age can, with it in its hands, say with

as much propriety, as Shakespeare: All the world's a stage! who doubts it? Only with universal publication can there be, in any good sense, universal suffrage and universal qualification for office; provided the voters and the office-holders are also universal readers. Of all other arts the American specially needs most the art to read!

But that art is still to be formed here as elsewhere. We have still too many special readers. Some read nothing but the Bible, others only *their* newspaper, very few read books, pamphlets, public documents, reviews. Reading only newspapers was soon discovered to be a defect of the earlier daily and weekly publications, and a bridge for connecting the best reading with the worst was found necessary, and supplied by the French Encyclopædists, the "British Reviews," 1749-65, the "Edinburgh Review," 1802, and the "Quarterly Review," 1809. These have had numerous colleagues and followers, and we have them in America in the "North American Review," the "Atlantic Monthly," "Harper's Magazine," "Scribner's Monthly," and the "Nation." And at their hands the American press is growing in thoroughness and comprehensiveness; consequently the newspaper approaches (among the better ones) the book; the book learns from the superior newspapers, and the editors get more and more the higher literary aptitudes; while the authors are also educated by the papers; and thus there is not only more, but also better reading.

Two popular errors have impeded progress in matters of education—which includes, of course, the press—in the United States: first, that common school instruction, plus the Bible, gives a sufficient schooling for the people; second, that the newspaper, plus the almanac, gives all the subsequent culture necessary for the adults of the land. Franklin, the American printer-saint, humored these prejudices by following the motto—

"Men must be taught, as if you taught them not,  
And things unknown proposed, as things forgot."

His "Poor Richard's Almanac" rested on the idea, that all beyond reading, writing, and ciphering could and should be *self*-education, and the mainstay in that would be the newspaper, aided by public libraries, debating societies, and literary clubs. He has left the impression on his fellow-craftsmen, that the best possible school for an editor is a printing-office in which a paper is published. And we admit that Franklin's success justified such an opinion in his case; at the same time we beg to mention a much higher type of editorial achievement, that of Addison in

the "Spectator," 1711, which rests on a very different footing. Addison had a fine classical university education, to which he added that of a publication office. He had a much higher idea of the object of a public paper than prevails now, to wit: "to correct the vices, ridicule the follies, dissipate the ignorance, cultivate the understanding, and refine the taste of the public." Place opposite to this that other conception: that news, news, news are the only aim of a paper, and you have the highest as well as the lowest idea of the function of the *press*.

Let us now, for a moment more, bring before our minds the relation of Jefferson to the American press; for to his vigorous defence the preservation of the freedom of this great medium of popular education is generally ascribed. He prided himself in his old age, that he had never written an article for a paper in his life; and it is well known that he never was the author of a book; that he never delivered an oration and published it. He drafted state papers, and he was a prolific correspondent, and retained copies, which have been published since his death. But he neither of himself, nor by aiding others, established a press; and he evidently regarded a direct or indirect support of the press through public means as an unclean transaction. He did not derive his own education from the newspapers nor any public journals; and we know of no instance in which he recommended to anybody the reading of any special periodical. Still, he owed his success in life and of many of his public measures to the zealous support of editors, publishers, and writers. They prepared and fixed the public mind for the political acts in which he played the great parts; while he only gave the cue, the catch-phrase, and the argument, through letters to individuals having the ear of publishers, and followed it up by some public report or elaborate state paper. He was, in short, an authority for the press; never its disciple. We are puzzled, therefore, what Jefferson meant by his expression of a free press governing a country without a government. Did he have an idea similar to that of Addison? If so, why did not *he*, the fittest man of his time, do his part in that work? Or did he believe that a press that is not organic, which neither forms a public will within itself, nor assists the body-politic in forming one, can be a government? Then we have to tell him, that the Church has once aimed at such a thing, and that it had to call in Government to supply its deficiency. Let us now see what some other public men of America thought of this matter.

There are Madison, Hamilton, and Jay. They differ from the two personages already named in two very important particulars: from Jefferson, *in using* the press for its highest, if not *only*,



legitimate object—the political education of the people;—from Franklin, in *not* using it for private gain. They united in publishing a series of articles in the “New York Times,” 1787–88, under the heading “*Federalist*,” in favor of the new Constitution. Fifty-one of the articles were from the pen of *Hamilton*, twenty-nine from *Madison*, and four from *Jay*—eighty-four in all. They were the very mental food the people needed at the time, and they are the only American publications of the period which are recognized as standard (classical) work by the scientific men of Europe, and they are still of permanent value on the subject of federal law. Our age feels, ninety years afterwards, that it would have been a fault, in these sages of the Republic, not to have written these articles, and a misdemeanor in the owners of the “Times” not to have published them. They obeyed the same impulse as that, which made the seven wise men gather together into proverbs for the people the wisdom extant in their time; indeed, the same as that, which made Moses engrave a Decalogue on tablets of stone. And the conclusion lies near, that there are things which somebody ought to compose and which somebody ought to publish; and with it goes the opposite perception, viz: that there are things which nobody should either write or publish. And these observations raise the question: Who is to be the authority to determine the issues raised by these social and political necessities? Who else but society, by the same organs which make, enforce, and execute all our laws?

We are, of course, aware that there is a public sentiment which denies the existence of these necessities, and asserts that no public authority ought to exercise such a power; but we beg simply to say, that it will be time enough to argue this proposition when somebody shall show us a human society that has not done to some extent these two things. We need only instance public notices, the town-crier, public documents, the reports of public debates. We repeat, therefore, the only issue is: how shall these public wants be supplied?

The most formidable, because most plausible proposition in contravention to this view, is the one: that the press can be this authority to itself; and that it does not need even to be organized and subjected to self-regulation for this. We might simply answer by asking: Why, then, has it not done it? But we prefer to point to the historic fact, that no institution which has to look for support, honor, or wealth to its public, will tell to that public the truths which it needs, to be truly ethical. The churches of the United States are for that reason more lenient to the special viciousness of their flocks, than those of

Europe. And it is so with the press. Each party organ abuses the other party, but does not expose the vices of its own. Where, then, is the disinterested action, the virtue, and the wisdom to come from, that is to give the press its higher tone? The press associations and conventions display inclinations in that direction; but their leading motive, so far as we can see, is the desire to make money and to rule. They embrace, moreover, only the press in the narrow newspaper sense, and cannot have full ethical interaction. Hear the press and all connected with it, give them full liberty to pursue their class as well as personal interest, but do not allow it to be the sole master-authority in the land. Protect the press against "the insolence of office" and arbitrary legislation; but protect society also against the press autocrats. We ask: Is society as free and Government as independent as it ought to be? None dare say: They are! For we all know that there is in most of the counties and cities of the Union some bad, shrewd, and indefatigable press-lord, of whom the good men of the country have to be afraid, and in whom the wicked rejoice. Sometimes there are two, one in each party, but such co-operate secretly. And whenever the press meets in common council, or when it sets out on a common course, they give the tone. They overawe legislative bodies, even the courts of justice, and absolutely dictate the policies of our executives. This began in a better sense when, under the Public Printer system, men like Ritchie of the "Richmond Enquirer," Gales and Seaton of the "National Intelligencer," Duane of the "Aurora," Blair of the "Globe," Croswell of the "Albany Argus," S. Medary of the "Ohio Statesman," Shadrach Penn of the "Louisville Advertiser," and Prentiss of the "Louisville Journal," first set out to carry out Jefferson's idea of a free press that ruled over a feeble popular Government. But it ended, like all class power, in bringing to its support the men who make up their lack of culture by low intrigue; and to-day men govern this Union, through the press, who are a standing menace to its liberties.

The practice of an official printer began in England with *Cromwell*, his editor's name being *Mr. Needham*. Charles II. had afterwards two, and called it "Reform." The American colonies continued this procedure, and had, as a sort of political priests, the official occupants of the tripod of the central press of the several colonies. Georgia abolished her state printer only lately by her last Constitution (1877). But in all this state printing, the idea of using the press, in Addison's sense, was very imperfectly carried out; in fact, the bread and butter it furnished to the editors and printers was the main object.

This has indeed survived the system, and to-day the rarest thing in America is a publisher or an editor or reporter, who does eschew, from principle, all sorts of feeding of the press, and those who hang around it, from the public crib. The so-called reform of letting public printing and advertising to the lowest bidder, is but a more corrupting form of an old abuse, and still the country publishes largely, at great cost, what it ought not, and fails to provide for the promulgation of *that* economically, which the people need, to be free in the highest sense.

Do we not all see, that it requires only an extension and perfection of the methods already in practical operation, so as to make them more economical as well as efficient, to give this people the very mental action they need? We have governors' messages, reports of cabinet officers, *et id omne genus*. Why will we stick fast in these annual summaries; why not have monthly—yea, weekly—nay, why not daily statements? That they are wanted is evidenced by the daily interviews of our Presidents, Secretaries of the Treasury, &c. Must these public men for ever wear the reporter's mask? Must the public always see through such spectacles? Why not have direct open communications? Why not have bulletins open to all? Yea, we make bold to ask: Are there not matters, which all papers should be compelled to publish? Other governments, and they are of the better sort, are taking this direction. Why not we, in modes suitable to our institutions? Should not the associated press telegrams be an organization free to all on easy terms, just like the weather reports?

The quotation at the head of this chapter speaks of the press as "the assay office of literature;" and we assume, from the source of the remark, that the assaying is to be performed by the action, interaction, and reaction of the whole press upon its parts, and that the whole includes, here, not only the newspaper or the pamphlet, but also the reviews and the books, as well as the official utterings of public men in explanation of their conduct. We see at once that the performance of the function is impossible without freedom to all engaged in it; but we perceive also, that it is dangerous without the restraint of law. "Assaying" means the ascertainment of the intrinsic value, and the excerpition of the dross from the pure metal; it includes also, as for instance in money, some official mark in aid of those, who have not the means of doing this for themselves. And the question is: whether this is now performed at all; and if we answer, as we must, to be truthful, that it is to some extent, the issue arises: whether it is done sufficient for public safety?

In considering this, we must bear in mind that the main em-

ployment of the better press has been for the last three centuries, and is mainly still, to bring out the intrinsic merits of *ancient* literature, and to cast off the dross. That it could do that well, the editors and writers had to be without personal interest to mislead themselves and others. The whole matter changes when the assaying is to be done upon their own and contemporary work; then it is "power in action" that is to play the critic on "power in possession." And the judgment is then unfree and warped by prejudice, by self-interest, and by personal likes and dislikes. This is peculiarly important in a republic, where the formation of the public will is almost exclusively subject to editorial good or ill will. To reduce the danger that lurks self-evidently in this condition of things to a minimum, is therefore the great public task; and while we heartily subscribe to the motto, "Error of opinion may be tolerated when reason is left free to combat it," we nevertheless think, that freedom here means more than mere enfranchisement from authoritative interference; that it requires before all the "assaying" that lies in self-purifying and self-elevating processes. These are so few in the United States and its press; because in our society, to amount to anything, persons must, however great their genius and attainments may be, also have riches. In Europe it is the other way; there, to be esteemed, even the rich, must have cultivated minds.

We say, then, in conclusion: Leave individual enterprize as free as possible—that is to say, make the fewest possible prohibitions as to what shall not be published; confine punishments to crimes and immoralities actually committed, or by clear evidence about to be perpetrated; apply, in fact, to the press no more and no less than the jurisprudence that prevails as to all other individual criminal or immoral conduct and intent. Watch carefully and impartially whether the press, in the hands of individuals, is doing its own assaying, and leave it alone if it does! But fail not to supply deficiencies by the criterion that its work shall be beneficial to all. The same principle that justifies the construction of public roads, the erection of public schools, the preparation of public reports, the daily weather reports, applies to the press. It is in reality acted upon, when our legislative bodies appoint commissions and experts to investigate a given subject and to report the truth, scientifically and impartially ascertained. The reports of our consuls from abroad, the bulletins of foreign and domestic markets, the telegrams of the associated press, the circular letters of great broker and banking firms, all these and numerous other modes and methods, all have one object, viz: to place society, as the French say, *au*



*fait* on the subjects vital to their private and public conduct. Extend these, perfect them, use public officers for getting them up; supply society with some gratis, others at cost, and others for a small profit. In brief, do everything that shall relieve the Republic of those most abject as well as most dangerous individuals, that form their opinions by reading their party press and then vote a party ticket.

We know that the popular current is all running in the other direction; that the press is now regarded as unfree, just to the extent to which Government prints anything or assists in preparing matter for printing; but what do we care for popular currents? We do not want to swim with them; on the contrary, we mean to counteract them; and this chapter was written, not to humor them, but to point in the direction which we deem right. We have followed all the various vocations connected with the press; have helped to start a paper, have labored hard in giving it life and keeping it healthy; have been editor, contributor, correspondent, writer of public reports, and even of books; have officially voted on and discussed public printing in all its bearings, and think we know, what should and what should not be done in the premises. We hope we were qualified to advise as to the future of the press.

## CHAPTER XII.

*THE BALLOT-BOX.*

"A real statesman's work is to secure a majority to his views, and not to follow those of a majority."—*Virchow*.

THICKLY strewn around us lie the evidences, that governing by the ballot-box, based on universal suffrage and universal qualification for office, is a failure ; but why this is so, and what remedy we should apply, is not so intelligible. Some suggest that the elective franchise should be conferred for wealth ; others, that education alone should qualify, even those who would extend it to women are not wanting. But we think the evils will be reduced to a minimum if we will only get clear of our over-estimation of the value of the ballot-box ; for we can stand universal but not chaotic suffrage. We mistook its arbitrary rule over society for self-government, and believed, that allowing men to vote their friendships and enmities, was not only a patent way to choose public officers, but also, to secure an efficient administration of public affairs. But it came otherwise : we got either too much or too little government, and both at the wrong time and always bad ; for popular men are seldom, if ever, efficient administrators, or politicians in the true sense. How, then, could good government proceed from a ballot-box filled with tickets with men's names on it that were voted for either from personal or partisan motives ? They expressed nothing but personal preferences or political fictions ! Had we but paid attention to the fact, that the more people voted, the more frequent the elections and the more names there were on the tickets, the less law and order and liberty there was, and we might have seen, that we were all on the wrong tack ; for no government that creates a necessity for more government is good government. Not paying attention to this, we overlooked, that this necessity was ever growing among us, and voted and voted, but raised nothing but bubbles by popular fermentation.

The origin of all our misconceptions was : the assumption,

that whatever was wrong in European governments had its source in the absence of popular elections. And under this impression, all those, who pointed out to our age that many former governments declined and fell because too much subject to popular control, were treated as traitors to this "New World" of ours. They were told, that historic lessons were of but little value in comparison with the new lights which modern, so-called philanthropists, evolved.

But lo and behold! events run for awhile with this false prognosis! Every step towards more popularized public authority was accompanied by an improvement of society, and it then seemed reasonable that the acme of good government would be reached when it should be popular altogether. The presumption, that popular instincts were superior guides to historic experiences and statesmanship, carried with it the other, that all prescribed qualifications for office, such as age, property, and education, were relics of the dark ages. It was held, that, with a free press for discussion, mass meetings for ascertaining the public will, and party conventions for expressing and carrying it out, we had the *ne plus ultra* of ideal democracy. And so the ball was set in motion; its own elasticity, and the springy condition of society, gave it a new impetus at every bound, and it never stopped until it reached the dead level of *per capita* equality in voting and holding office. And now the people, having purged Government, as they thought, of all royal and aristocratic prerogatives, began to look at themselves in the mirror lit up by the aurora of the new morning, and saw a dim image of authority in a vapory political atmosphere.

Then the perception began to dawn upon them, that in up-turning so much old authority they had left no foundation for the new, and that now the great task was before them, to find a reliable basis and fundamental reason for their democratical rule. And when they undertook this, and proceeded with it, they had to learn, that all they could do, was to re-establish old ways and means under new names, and that often they could not even do that. So it became obvious, to the wiser, that the ballot-box was far more a disorganizing than an establishing medium in politics; and the question was: how to govern its government? And it was supposed to be solved by separating society into two parties, that should check and control each other. But as that produced nothing but a running contest as to which could do most "ground and lofty tumbling," it led to intrigues, frauds, and fabricated majorities. Other suggestions followed, such as minority representation

and *Baber* laws, but the momentum that had been gained, was too strong to allow these brakes to be of any service.

Using parties as brakes on the ballot-box ! *Risum teneatis amici !* Was it not doing for American government what bad men, who meditate injuries to railroad trains, do to the rails ; to wit : they grease them, so that the engineers and brakemen cannot check trains and arrest dangerous precipitations. Let society improvise ever so many changes and reforms, the demagogues would ever pour their grease again upon the track and defeat these plans. And thus the incontrollability of the very parties, that were to control the ballot-box, is the great fact that stares us in the face. It puzzles, while it alarms us. All our most cherished presuppositions and self-flattering unctious are proved to be naught but illusions. We hate the remedies which science points out, because they look like reactions, and we recoil instinctively and rightly from those to which our male and female demagogues would persuade us. So we fall victims to prevaricating movements, which baffle the wise and confound the people. We started, therefore, a new presupposition, to wit : that our case is entirely different from all that have preceded it ; and as there is a semblance of truth in it, we confided in it, produced it on all occasions, and ignored the standard lessons of political experience. We ever snatch at measures suggested to us as modern improvements, and soon get disgusted with them, because most of them were but revivals of ancient errors. Had we but applied to our politics the rule worked out by mechanical science, viz : that " no force can be safely used by man which he cannot control," and we would have instituted no political powers without adequate checks upon them. We should not have slipped into irresponsible party governments, that eat out the substance of the people, leave them without good public authorities, and conduct our public affairs to ruin and disgrace.

The reader must by this time have worked out in his own mind, as to the ballot-box, the law of fatality, which history tells us overtakes all, who seek to govern mankind in the wrong way ; that is to say, by their own arbitrary and fitful will, instead of a lawful wise-matured collective public will. They then enter a vicious circle in which political fictions and self-delusions play their parts. And when a whole people act thus, it leads to the anomalous condition that they must be either cheated, or overruled for their own good, so as to avoid anarchy. A ballot-box that represents but an arbitrary public will must be either stolen or suppressed ; and as the latter is impossible (except by *coup d'états* or revolutions) after it is once in motion, we have had the former course practised upon us. And in one



sense we may congratulate ourselves that cheating and not violence is still the way of our politicians. Give thanks, oh ye people! that you are still only counted out and not *swept* out! One or the other had to be the result; and all the difference between the two procedures is, that cheating may last a long while, and there may be a sort of peace within the smothered war, while the other makes short but bloody work. In the first we measure the magnitude of the delusion by the insidiousness and pretentiousness of the frauds; in the second we compute it by the severity of the blows that have to be *dealt out, to rescue society from its nightmares.*

Why! what is there in this political god of ours, the ballot-box? There is nothing in the box itself, nothing in the tickets; nothing in the ceremonies or the act of voting. And we evince our own knowledge of this nothingness by the manipulations we go through in passing platforms, in making speeches, and writing, printing, and publishing editorials, so as to give it an intelligent look. For what else do they mean except efforts to inject *something* that looks like brain into our political nothing? The old folk-gemote where the citizen voted *vivâ voce* with his hand on his weapons, had a *striking* significance, and the modern New England town meetings have their value; but ticket-voting is an act in which eloquence, personal bravery, social position are stripped off, and a cold naked equality is produced, which superiority must hate, as well as seek to counteract. The orator endeavors to use his brains and voice, the rich their money, the cunning their capacity to combine, and the idealists their enthusiasm, so as to have the ballot-box as little injurious as possible. It being the only opportunity for a display of their force within or about them, they use it for their political purposes as they do use, in the pursuit of wealth, their personal capacities. To expect them not to do so, because a mystic sanctity is thrown around the ballot-box, is absurd. We have to learn, that the ballot-box is an attempt to make equal what has a right to be unequal, and that it is a suppression of superiority, which is just as wrong, as was the ancient suppression of the working elements of society.

The defenders of the ballot-box system look down upon its elder brother, the lotto system; but we think the latter preferable to the former. They resemble each other in one thing—both, being machines that work out lucky chances, are ascribed to divine interposition. But in the lotto, as originally introduced by Solon, the possibility, of the success of an incompetent man, was reduced to a minimum, there being no names put into the box except those of closely examined and

qualified candidates. There is no such precaution taken as to the ballot-box. On the contrary, universal qualification for office, and the prevalent ill-will to men of moral vigor and good capacities, makes it almost certain that incompetent men will receive the preference. Nominating conventions may select occasionally men of genius and culture, but they will not even then vote for them, unless they are partisans and the party needs their indorsement. Great talents and faculties are wanted in conventions only as means to ends, but they are not a success at the polls. It must be plain, then, that the criterion of a party convention is diametrically opposite to the true standard; in other words, that which qualifies him for the nomination disqualifies him for the election.

Another serious objection to the present system is: that it multiplies candidates for office, so that if the old Roman rule, that every aspirant to office shall wear the white toga called "*candida*," were still in force among us, the whole country would look perpetually like a snow-field. The annual—average—cost in time and money of our partisan politics we estimate at \$400,000,000, equal to the sums consumed by the standing armies in Europe. No royal, no priestly, no aristocratic method of filling the public stations was ever half as expensive as ours, and none ever placed as many wrong men in power as this, our ballot-box.

And having written these condemnatory words, we must, to avoid misconceptions, explain our views more fully. We would not throw away the ballot-box, nor deprive anybody of a vote, nor curtail the real uses of the franchise; on the contrary, we would organize it better, extend the right thereof, and enlarge its benefits. We know that persons, living in society, should have opportunities to express publicly their political ideas, and that something more is necessary for that purpose than audiences before potentates, or petitions to legislative bodies, or calls on administrative officers. Neither do we believe in the old legal fiction, so much inculcated by the clergy, that public authorities can listen out of society, by a sort of divine inspiration, the social wants and the proper measures for their satisfaction. We admit that some such thing, as the ballot-box, was and is necessary to give the people their right to be heard and felt. But we know too much about our kind of ballot-box, and the nominations that precede the elections, as well as the canvas and the election that follows, not to see, that the semi-popular and semi-divine character, with which democratic pietism has endowed it, is a mere political fiction, and that it denies, in effect, to the body of society their

right to be heard and felt. It confers on the ignorant, the selfish, the prejudiced, the spendthrift, and the inexperienced, claims to consideration, which they do not deserve, because it merges their votes with those of their social counterparts, the intelligent, the humanitarian, the high-minded, the frugal, and the experienced; and drowns the higher in a lower public will. This governing under false pretences we wish to abolish; but the right of all to be heard and felt, we wish to establish. No ballot-box, that expresses only a *merged average*, that is but a blindfolded, false, and therefore vicious potentiality, can serve this purpose; for the corrupt can use it sharply and freely for their designs, while it is as good as denied to those, who are conscientiously virtuous and wise. What we want is a ballot-box system, by which all may receive the weight they are entitled to, but no more. Give to each and all a voice in public affairs, but let us know, who it is that speaks, what *worth* there is in his speaking, and how far it deserves consideration.<sup>1</sup> We need a ballot-box that instructs us, and not one that puzzles us.

The first step in the right direction is the understanding, that, organized by and in the hands of statistical scientific officers, the ballot-box may be made a self-recording political census, that would give us, in speaking figures, the inchoate public will, so that a mistake as to the value of votes in the political (using the word in its best sense) scale would be almost impossible. We cannot go into details, but may state the general principle upon which this improved ballot-box should be based, to wit: that there shall be not only individual (mere *per capita*) votes cast, but also interest, class, and family votes, or if you please joint-votes of husband and wife, dependent on the consent of both; that the procedures shall be varied to the township, county, state, and United States, and in time and place, by age, occupation, and profession, even as to specific interests. In brief, that every vote cast shall not be a mere numerical entity, but carry with it its actual value to government. No fair-minded citizen can object to a system that gives him all the weight he deserves. Everybody wants to know the will of the people, but nobody seems to care to impart definite speech to it; and the consequence is, that those whose function it is to give it formal expression, are constantly perplexed to interpret

<sup>1</sup> It is, we think, pertinent to refer the reader to the *interviews*, which make up so large a share of our daily paper. Are they not a sort of imperfect vote-taking such as we suggest? Each person interviewed casts, so to speak, an expressive vote, and the desire to give such a vote, and that to read it, are, it seems to us, indications that the public mind wants something more than ballot-box voting for ascertaining the condition of the public mind.

the ballot-box. Were there groupings such as we suggest, and to each were apportioned the election of those officers, in whose conduct they are most concerned, and we should have not only for each voter, that elective franchise, which is of most value to him, but society would also have the greatest value out of popular suffrage. Once understood that the people can neither determine the public policy, nor act disciplinarily on the public service, nor correctory on public abuses through a ballot-box, filled with blind as well as deaf and dumb tickets; but that they *can* do it through a ballot-box into which tickets are voted, whose personal import goes with them, and which are stripped of all fictitious assumptions; and it will take but a few years to produce a total change in all the details of our electoral methods, and we shall have, besides the groupings of the voters, also classifications and subdivisions in the subjects and persons voted for at elections, that will give us a much more intelligent, as well as more intelligible elective franchise.

We once had schools in which no daily record at all was kept; next came those that had a roll-call from registers, and a record of daily attendance; this was followed by tabulated statements of proficiencies, and on these were based the graduation of scholars, their promotion, &c., and out of it grew better standards for judging the qualifications of teachers, the merits of the various disciplinary methods, and the value of the school itself. It all rested on instituting for each school a self-recording census, that made it express itself to those whose task it was to govern; and they now could see and direct intelligently. We are, as to the ballot-box, where the old, almost useless school registers were, and we have to bring it up to the efficiency, the measurability, and perspicuity which now prevail in the best school-systems of our age. It seems plain, then, to us that we have to get out of a mere *per capita* ballot-box; it only gives us numerical averages, and these lower and lower in quality, for it degrades the superior voter to the level of the inferior voter, and inevitably destroys in him the ethical standard by which alone he can discharge his civic duties safely for himself and society. How can he think of himself as he ought to be (a true citizen), when the law declares him to be no better than the lowest drunkard, or the man who exists by public charity, or him that defrauds his creditors? What good man has ever, after voting and finding himself merged in a general average, gone home to his family with as good an opinion of himself, as he had in going to the polls? In all other relations of life he is a factor in society in accordance with his faculties, whether innate or acquired; but here he is esteemed only for having a



head on his shoulders, perhaps only a hand to vote. His inner sense must revolt at this, his degradation, and he will use whatever force is in him, to resist and counteract it. For instance, the Republican party invented an issue to distract their opponent's councils on purpose, to get some share in the government of the country commensurate to their social position and their mental culture. The existence of that party is nothing but the reaction of society to a *per capita* ballot-box; but it had to pretend to be actuated by other motives, and the logic of these pretences drove them to negro suffrage against their inner better judgment.

It may now be interposed, that since the ballot-box, as it is used, emits false lights to the statesmen of the land, it would be better to throw it away altogether than to attempt its reconstruction. But we beg leave to differ from this hasty conclusion, whose logic would, if followed in other things, deprive us of all rectification in political affairs. The ballot-box is now a convenience for demagogues; but it may be made their terror, if we will only endow it with the capacity to announce its own reality, by variations in its use. In Switzerland a faint step has been taken in the right direction, by requiring both a cantonal as well as popular majority to carry an amendment of the Constitution. We had the same idea in our Constitution, through the distinction between electoral and popular votes; but instead of improving upon it and extending it, we have practically set it aside. The principle was also contained in the different organization of the Senate and the House—the first representing the states, the second the congressional districts; but we have never tried to ascertain the motives, the personal, partisan, or class interests, that sway the voter, and have therefore remained in the dark as to the most vital facts in reference to our politics. We have here again had the right perception as to representative votes, and have prohibited the members of our law-making bodies to vote where they are biassed by private interests; whilst as to popular votes we have again and again placed the temptation to vote themselves benefits (curses would be the better word) within the reach of popular majorities.

In former times the efforts of statesmen towards protecting one portion of society against those who were believed to be disposed to use their right to elect for voting their cupidities and prejudices into the ballot-box, and thus produce unjust government. Is it not better to let all vote, and to have each person, as he or she votes, place on record his social position and other characteristics; for instance specially: whether they pay taxes, and in what form, whether direct or indirect? How

soon we would learn the motives of voters, and thus learn to measure the true import of every election.

Popular demoralization ensues also from our pretending to take the sense of the country, when partisan tickets, voted for candidates for office, produce only its nonsense. It is an old trick of British politics, that works even worse here than there. Our party platforms are intended to serve as a cover to the real designs of our political partisanism, as trico does for the temptations of ballet-dancers. The platforms present to voters an excuse for their false voting, and thus invite the very thing which should be restrained. The probabilities, that unfit men get the offices, are increased immeasurably, while it should be the aim of all to reduce them to a minimum. A double cruelty is thus inflicted: first, the better candidate is repelled by the hopelessness of his aspirations; for he is, in nine cases out of ten, brutally rejected; second, the well-disposed citizen is often forced to choose between candidates, neither of whom is fit for the office. Now no society has a right to subject its citizens to any such alternations; on the contrary, it is bound to institute procedures that come in aid of its superior citizens, and they can be no other, than to prescribe general as well as specific qualifications, and to exclude all candidates, that cannot prove their fitness by these prescribed tests. Wise kings have instituted such restraints on themselves, well knowing that it was beneficial to themselves and the body-politic. Why should a wise people withhold them? A choice between two or three candidates, that have proven their competency, is an assistance to voters, while a choice between a mass of incompetents is misery to the good voter and to society. None but demagogues can have any desire for the latter conditions, and only they can deprecate the introduction of reforms. No wonder that the people, ashamed of their attitude in this matter, are demanding the right to vote by ballot in lieu of the old open—*viva voce*—voting; for there is evidently something to hide. Open voting was the personal indorsement of the ticket, it honored the man who cast it fearlessly, and it honored the ticket; but when the voters became party slaves, when the ticket expressed nothing except hatred of opponents, it dishonored him who cast it, and carried a dishonored piece of paper into the box. The pretence is patriotism, the reality partisanism! And as long as the voter is under the delusion, that he governs the country when he casts tickets, our public affairs will be caught as in a snare.

But after understanding that the ballot-box is an engine of mischief, when used as the originator or final judge of the

nation's public policy. The people have to learn furthermore, that there are but few offices in which they can use their choice to any public advantage. All official position, which, to fill well, requires either strict impartiality, coupled with culture, or specific technical qualifications or peculiar personal capacities, must be withheld from popular elections; because nine out of ten voters know nothing or have wrong conceptions of these requisites. Such public positions are all army, school, most of the fiscal, and all the judicial offices. In looking over the whole field of our public service, we have no hesitancy in saying, that, if it were properly organized, there would be but the following elective offices, and they subject to some prescribed qualification: One chief officer for each township, town, city, county, state, and United States; and for all these political subdivisions, the members for the legislative or ordaining assemblies, such as town or city councils, state legislatures and our lower house of Congress; the county assemblies to be supplied by delegates chosen from the township and city councils. The tenure of office to be: one year for all township, two years for all county, four years for all state, and eight years for all elective United States officers. No one should be eligible to a county position that has not previously filled properly a township office; and so up to federal offices, the county employment to precede the state, that of the state those of United States positions. This species of *pre-qualification* to apply only to elective offices. The power of impeachment, expulsion, and removal to be vested in the assemblies by two-thirds' vote, and they should also have authority to change cabinets and chief advisers or councillors by absolute majority votes. Were our governments thus organized and the ballot-box would have its appropriate sphere; those elected would have indicators and meters of public feeling, through classified votes, and special constituencies, for specific branches of government. Then there would be an ever-present control over the respective public policies, either through delegates of the people or the people themselves. And there would be a general body of officials, who would quietly but efficiently administer the public business as prescribed by statute, and under the legal orders of general officers elected by the people. If our people once understood what a stand-by to society such a public service is, how unostentatiously, yet efficiently, it performs its functions, how it is held in its proper place by previous culture, discipline, and the certainty of a career for life (if the behaviour is correct), how such an official corps is a standing guard on the political (electoral) powers of the land, and a

corrective at the same time of ill-advised, hasty elections, by having the general business of the country in continuous, safe flow; then our people would realize what a curse they are nursing, through an arbitrarily elected and appointed body of officials, who, to maintain their families, have to circumvent public opinion, filch public means, and miscarry public business. They would see, why, with all their vigilance and millions of eyes, there is no public insight into public affairs; and why our politicians and our office-holders mutually support each other's rascalities.

We are, as the reader knows, aware that the advocates of a universal ballot-box accuse those who would limit it, with inconsistency; but as we comprehend the difference between mere methodical and objective consistency, the charge does not annoy us. Show us a mother that sends her child on *all* errands, or a father who employs his son in *all* transactions, or a commercial house that intrusts to one kind of men *all* functions, and at the same time a good household, a prosperous family, and a successful business, and we will accept the consistency of the rule, that because it is safe to elect legislators or governors, &c., that *ergo* it is proper also to elect assessors, engineers, school teachers, army officers, judges, heads of departments, and their subordinates. Since nothing of the kind can be shown to us, we cannot shut our eyes to the facts long ago discovered, to wit: that all such universalisms are but asking society to allow special incompetencies to be covered up under some general mantle. In the end the truth leaks out, and public gaze learns by the bitter lessons of experience. In our case this lesson amounts to finding out how our society can still subsist though unqualified voters are ever producing unqualified public administrations; or, if the words suit better, how we can stand so *much bad* government with so *little good* public service. This is the problem of our political omnibus with its universal inconvenience! Who is able to solve it? Can we not see that the respective faculties required for the different offices are not the same for all, and that it takes varied discernments to judge correctly in each case? Some may be perceived by observing men's conduct before courts of justice, in their addresses before juries, their treatment of public questions before the people, or by prominence in business, in industrial establishments or great public works. We may thus form a very fair judgment whether a man is fit for president, governor, legislator. But other offices require special technical qualifications which are never exhibited in public. So, again, are there public employments, for which the main qualifying



instruction is imparted in the routine of the public service, and nobody but those, under whose eye they work, can tell whether they should be promoted. All such offices must be filled by appointments under *prescribed* rules, so as to exclude all arbitrariness. No public canvass, be it ever so heated, can assist the public mind herein; and every ticket, on which candidates for offices, which require only general faculties easily discernible to the public eye, are mixed with candidates for offices, which require specific qualities difficult to be ascertained, can be but an item in a political hotch-potch, that perplexes the voters and prevents them from doing right even in those points, for which they would otherwise be fully qualified.

All power, popular as well as royal, is insatiate, and the constant demand for more and more officers to be elected by the people, until they overreached themselves, is but another episode in the same series of events that had been gone through with in other countries so often before. *Power that wants to perpetuate itself must limit itself*; and if it fails to do that, then it will be stopped rudely by the natural impossibilities. Had we discarded the British idea of conferring public office as patronage, and in lieu of it adopted the principle, that neither kings nor peoples have a right to put a *bad or incompetent man* into office; but that both are bound to make such a thing impossible, as far as they are able, and it would have been a blessing to this people. But the people would not do this; so they claimed for the ballot-box some divination, just as some former republics had seen in the lotto the hand of God, and believed it a good way to get public officers. And it *was* a better way than fighting for public position, but still not the right way. It was a game of chance; and when its sanctity had worn out, in the light of facts, it became a game of cheating; and when this came to be known, then they fell back again to fighting. Solon's method of using the lotto lasted the longest, because he restricted the number of candidates by a series of disqualifications. He gave to regular bodies-politic an authority to nominate, but even they had to choose from a list prepared for them, on which none but competent persons were. And, mark you, the tickets in Solon's box were drawn out, ours are thrown in,—a great difference, did we but see it! Some will say: The faith in the lotto was superstition; and so it was: but is our belief, that there is in a majority of tickets an authoritative expression of the public will, any more? Will not our posterity see the infatuation of our credulity just as we see the superstition in the ancient procedures? Indeed, will not our ways appear much worse than those of ancient Greece?

For, say what we will, the chance of a bad candidate being *drawn out* was next to none at all; while with us the chance of tickets being thrown in for a good candidate is a very remote one. The little possibility that is left is carefully shut off by pledging the candidate beforehand to be a party slave. Then the object is to exclude from the United States the possibility of men being better after the election than they were before. We do not wish to underrate the importance of popular manners in public men in republican governments, indeed in all governments; on the contrary, it is one of the best effects of popular suffrage. It imposes popular behavior and common politeness and suavity of manners; but it becomes a great vice when it makes this electioneering quality the only guide; for it then produces that most detestable being, the smiling, bowing, blarneying sycophant, that fawns upon the fools of the land, making them the majority and using them as tools for his ambition.

Gauthier de Rumilly, the President of the French Senate, by seigniority, spoke a few months ago, on assuming the chair, words that are in our opinion worthy of the highest consideration on our side of the Atlantic. He said:—

“In the course of my long parliamentary career, and a public life, that now numbers sixty years, I have seen every government fall that underrated public opinion, and tried in vain to govern without it. On the other hand, I have seen the respect and influence of all those political authorities grow, that brought into harmony the conflicting interests and wants of society, through measures embodying a ripe public will. These lessons should not be lost upon us—the co-agents in establishing the present new republican institutions. It is to be expected that the first moments of a new era should bring uncertainties, and that we may have to grope for the right before a regular and steady reign can exist. But the necessity for harmony between public authorities is so strong, the desire for peace so vivid, the love of country so deep, that it will compel those in power to avoid conflicts by keeping in view the limits of their prerogatives. And in this sense it has been truly said: that the future belongs to the moderate. Let us keep it before our eyes!”

The speaker was then eighty-five years old. When he was born, the first experiment of an unlimited ballot-box rule was about being tried. But being a convulsive reaction against monarchical reigns, that would not let the people speak to them, except by petitions, and hardly through them; the new government committed excesses, and it had to be superseded by imperialism, which was followed by the old deaf royalism,

with the vicissitudes of 1830, 1848, and 1873. The lessons which have just been portrayed to us, in the above quotation, apply to us, though seemingly we have had but one steady growth of popular power. Our culminations into discords were more protracted, but also in the end more gigantic. We had in one decennial period (1860-70) greater losses in men and means than the French had in ninety years.

Blind to our own condition, we are clear-sighted as to that of France with her Bourbon, Orleans, Napoleonic, clerical and republican parties. We *thank the Lord that we are not like her!* and overlook, that we are in the same, if not a more distracted state.

Neither the French nor the Americans can choose, from among their parties or factions, a government, of which the main body of society can believe that it is sincerely anxious to know the public wants and to satisfy them properly. Louis Napoleon did *in fact* do so, but still a very respectable minority could not be made to believe it. The Comte de Paris would doubtless try his best also, but he too has this prejudice against him. And the republican party, now in power in France, has even more serious apprehensions to overcome. With us no democrat credits a republican administration with pure public motives, nor do republicans confide in democrats; both hold each other trustworthy only when out of office. This state of things began with Adams, was continued under Jefferson, Madison, and Monroe, and took an aggravated form under J. Q. Adams, and has steadily increased ever since. Under Pierce and Buchanan it had full justifying cause; so also under Grant. Mr. Hayes is trying *in vain* to remove it, because he is at last a party President. Jackson felt the deep wound this sort of mutual mistrust inflicts on the republic, and he warned against it by the words: "Never for a moment believe that the great body of the citizens of any state or states can deliberately intend to do wrong." But even the most assiduously cultivated belief has to yield to *knowledge*; and when citizens organize parties, and maintain them for years for the purpose of excluding from the public service the talent, the culture, and the integrity of all not in their party, it shows not only an intent, but a settled purpose to do wrong. A partisan king or pope is intolerable, but so is also a partisan people! Xenophon saw the mischief of such a government in the greater malignity of the masses when angered by hard times, or their vanity and arrogance in prosperity. He claims that multitudes cannot be made accountable for the wrongs

they do. In our opinion the cause lies deeper; it springs from the popular belief, that what the people do is right, because *they* do it. This blind faith, in their own infallibility, makes them hate all who oppose their will, and their hate is so relentless, because they are ever in the dark as to themselves, while an individual, however much he may persuade himself to be infallible, cannot pass a day, without having some light that he is mistaken. Moreover, he dies; while with a people, generation hands to generation its national infatuations, and seeks to make them immortal.

Such popular self-credulities seem almost inextinguishable; the Romans retained them for centuries after their superciliousness had brought Rome into a decline, and finally to its fall. We cannot conceive how they, knowing themselves individually not to be infallible, could attribute it to themselves as an entirety. They doubtless imagined, that individual selfishness was dormant during the act of voting, and that patriotic motives were then specially awake, and hence they deemed themselves inspired, and that their will should pass for law. Our age acts on this very political fiction, for we too hold a voter to be more intelligent, virtuous, and wise as such, than we know them to be as men. This puts a film on our eyes, and we do not see the actual stupidity there is in our ticket-voting. What, we would ask, is the ticket after the voter has retired and is a nobody? It is one of an aggregate of departed individuals. And what does the voter get for his self-abnegation? An imaginary share in the government of the country! A soldier may get some real glory, when fighting in an army, a Roman felt his personality, when attending on the forum, a Saxon had his full individuality at the annual folkgemote, and a New Englander realizes a sense of freedom and equality in the town meeting; but a ticket-voter, of our ordinary kind, is but a nameless endorser of a piece of paper that represents his party, and which he votes, half conscious, that he has been tricked. The man who marries a woman with child from another, and thus submits to his own disgrace, may plead his own innocence; but our voters are always to some degree participants of the fraud; they are deceived, but also deceivers.

If these premises are correct, and we have not the least doubt of it, then it follows: that the two objects for which our ballot-box government is claimed to be instituted—the pre-determination of a public policy, and the supervision of public administrations or the correction of public abuses—are not secured by it. And if we will now turn to the political



axiom quoted at the head of this chapter, written by the man, who in our age writes more future politics than any other living individual, it will bring before us how different the coming ballot-box will be from that of our time. Under it the statesmen of the country will have restored to them the framing of the public policy, and the public administrations will be organized, so as to be self-supervisory and self-correctory; and the people will have, as they never had before, means to express their social necessities. We shall then have carried out, in its best form, the trite maxim lately announced by "Blackwood's Magazine;" that "it is the test of efficient leadership that the public follows;" for the "following" will not be a blind, but a seeing one. Statesmen will of themselves consult the public mind, do it often and multifariously; and their knowledge will be of the highest order, because it is the result of comparative research. There will be fewer mistakes, because in the very incipency of a policy, the test of its soundness, the approval of it, by the public mind, will be before them; and this will beget a much more even-tempered popular conduct, because society knows, that it is not to be surprised by precipitate actions; that, on the contrary, the necessity of its co-operation is presumed. It will have more confidence in government, and government more in society. Both will know that their respectively proper sphere is not to be interfered with, and neither will try to obtain abnormal powers as a counter-balance to apprehended usurpations. There might then be (we venture to prophesy) a general political disarmament, and the lions and the lambs could then lie down together in peace.

And as to the second object of the ballot-box—the supervision of public administrations—it must be obvious to all by this time, that it is not half so well secured by having millions of eyes upon those in office, as it is by having a few eyes on them in the right place and at the right time. Let the multitude peep and gaze and stare ever so much, it sees nothing, because those in office, even the competent and honest, feel the necessity of screening public affairs from looks, that are but pointless curiosities. Put all our officials into glass-houses, make them conspicuous by day, moon, or gas light, and at last it is not the *seeing* alone that affords the right insight, but there must be also the *probing*. The latter no multitudinous look, even if eagle-eyed, can perform; it can only be done by a properly organized mutual inspection and control of the higher and lower officials, as well as the several co-ordinate branches of the administration. This inter-current control has never been

effectively organized in the United States. The candidate has to run the gauntlet of public star-gazing before the election, but, after it, he is secure from (competent) inspection. We have really no regular responsibility, but an overplus of sensational exposures. The people are therefore ever alarmed, for they feel instinctively that there is no public economy, no supervision, no correctionary action, in the right sense. They have no rest, and yet their perpetual wakefulness is almost useless; for the ballot-box is but a makeshift and no real remedy as long as the normal inter-inspection and control between the superior, co-ordinate, and subordinate public offices is not enforced. The indifference of the people in the exercise of the elective franchise, and the consequent extra importunities that have to be used to bring them to the polls, should long ago have warned us, that the futility of the ballot-box as an elective, and also as a correctionary agency in the public service, was becoming patent to even the most stolid amongst the masses, and that they recoiled from being for ever the

“Chaos of thought and passion all confused.”

Evidently some other public measure must be adopted to secure to us an efficient and honest public administration.

We allow ourselves now to suggest, that the erroneousness of the prevailing conceptions and practices in reference to the ballot-box, proceeded from our not heeding the masonic rule, that it takes very different methods for building a house from what it does for tearing one down. For the latter purpose it needs hardly any measuring tools; questions of foundation, order, and beauty are in abeyance; all that is necessary for an effective tear-down is to shake and push with strength and caution. But for erecting an edifice it takes a plan and a policy, an architect, good mechanics, and vigilant supervisors, or else the thing built is

“A naked subject to the weeping clouds.”

In matters of government this point is so very important; because those employed for abolishing some obnoxious social or political power are very apt to be used in organizing the new order of things. This mistake was committed in the United States, when popular agitation was elected master-builder, after it had proved useful as a master-revolutionist. The ballot-box, as we have it, with its nominating conventions, their platforms, the partisan campaigns and elections, were the natural children of this action; it was to our politics what the drum and fife are in military operations. Popular agitation had, pre-

ceding and during the revolutionary struggle, one single point ; it was to bring out all the martial strength in the struggle for independence. When it was achieved, much of this strength was useless in political matters ; for now peace, the development of wealth, and social order, were the things to be accomplished ; and it was as senseless to keep up popular political agitation as it would have been to keep sending patrols round the country playing "Yankee Doodle" with drum and fife. Yet this very senseless procedure was gone into. Suspicions were excited, issues were manufactured, and speakers and writers volunteered to press them upon the people, and to get verdicts upon them, through the ballot-box. The politicians got the offices as a reward for disturbing the public peace, the people got the bubbles ! And they liked to look at them, as they rose against the sky, variegated in color as either an aurora or a sundown was in the public mind. And thus it has gone on to our day. Or do you deny it, kind reader ? If so, please tell us : What else did you get at the last presidential election except a bubble, illuminated by your own fancies ?

We feel free to say, that Washington, Hamilton, Madison, Franklin, and Jay acted on the rule quoted from *Virchow* at the head of this chapter ; that is, they had policies, principles, and views, which they expected to have supported by the people. Jefferson seemed to form an exception, for we are told, that he was ever listening for the voice of the people so as to know his duty. We have studiously read his letters and state papers, and while we meet occasionally expressions justifying the idea that he was a *follower* of popular inspiration, we cannot find a single instance in which he co-operated in a public measure or argument or proposition, that did not either originate in his own mind or was the result of reading standard works. He once in a while loved to *profess* himself a disciple of the people ; in *fact* he never was such. He led in the colonial legislature of Virginia, in the revolutionary Congress, in Washington's Cabinet, as President, in public addresses and messages, and in private life always by his letters. His unguarded professions became, however, watchwords in the mouths of demagogues, and his actual conduct has been overlooked. The same thing has happened to *Jackson*, and we cannot blame *Von Holst*, whose late work on America lies before us, for saying : "The American politicians declared the people to be God, and the people took them at their word and compelled them to fall down and worship their idol." But when Jackson's messages are carefully examined, it will be found that the old hero never worshipped at the popular shrine to the extent here intimated. His usual

language, repeated in his farewell address, is: "The good sense and practical judgment of the people, *when the subject was brought before them*, sustained the course of the Executive" (himself). It was Douglas who finally became the high priest of the modern Moloch (popular sovereignty). He wanted it applied to the territories as the fundamental idea of their institutions, and we must admit that he remained faithful to his idol, even after it had discarded him in 1860, for he knelt to it ever *after* that election.

In conclusion, we must sum up the whole subject by saying: Fill the ballot-box ever so much with tickets, and still it is but an empty schematism; a domineering in a vacuum, out of which no good government can come except by accident. The highest it can accomplish, for the voter is to let them be dead particles of an improvised majority. It is not an organic thing, it is not even a personification of the people, nor of society! It is said to be the fountain of government, really it is the source of anarchy! Fondly it has been called "the nestling of a whole family of modern political improvements," and its mamma—democracy—loves it for this and dandles it on her knees; but nevertheless it is and remains but the spoiled child of the state. And as we all helped to spoil it and to represent it to others as a good child, so also is it our duty to tell the truth about it, to help to break its will, to send it to school to learn, and to help the schoolmaster to teach it manners, and to change it from a petted, ill-tempered, capricious big baby into a useful, properly-restrained and lovable member of society. That is accomplished when the ballot-box is a self-recording census; when we shall know not only how *many* vote, but also what influence we are to accord to *each* vote. Let us know, whether a man votes his interests, his prejudices, and his desires, but weigh and value also when he votes impartially his intelligence and virtue. The regeneration we most need is a reformed ballot-box. Or, if the reader likes the late words, of a political scientist, better: "True politics require the education of the *electors*, and not the manipulation of *elections*."



## CHAPTER XIII.

## AMERICAN SLAVERY.

"Some folks become unjust out of an intense love of justice."—*Puffendorf*.

THE introduction of American slavery was an immoral act on the part of the American purchaser of negroes; because it planted in American society a certain *future* evil, with a view to a very questionable *present* profit. The guilt of the sellers in Africa was also a social wrong; it exiled a population for which useful employment should have been found at home. But it was a lesser barbarism than the old murderous customs of killing captives. That the American buyers were more civilized than the African sellers is evident from the fact, that they knew how to make useful a laboring force which the sellers could only waste. And this rendering serviceable an otherwise worthless people, is the fundamental good reason for all that hangs around the subject of American slavery. And by it objective social and political science will ultimately judge this phase of American society.

The standard of the abstract justice of an ownership in human beings, was always a *petitio principii*; and while it confused many minds, it never settled anything right. The American master's superiority was all the justification he had for his assumption of control over the negro, and it dwindled and expired, as the slave developed into a higher human being. The imported negro felt his own inferiority and submitted; but as he rose in real value his self-esteem developed, and his restlessness in his chattel relation increased. Evidently, then, American slavery was ever digging its own grave, for it improved the negro and, as compared with his African home, gave him a joyful existence. The negro had a hell behind him and a paradise before him, and the memories of that fact are the basis of all the good feeling and gratitude, which the negro still feels for his old master.

It was indeed a mistake, yea a crime, to take the negro to a

land that must be eventually but a vast negro graveyard; a country of which the negro might speak *Lenau's* words—

“My home-land had a warmer grave for me.”

For he was taken into a climate too cold for him, and mingled with a people, that must dislike him the more, the less he was an abject slave. As the negro had no will of his own on the subject, the culpability hereof lies at the door of those who sold, transported, and bought this victim race to America. The only excuse they can offer is the ignorance of their age of the social laws, and their blindness to the things transpiring around them.

It is illustrative of the ease, with which human beings will conceal from themselves their inner consciousness of wrongs, to note some of the casuistries which made the American slaveholders overlook the true issue, that would be joined between their and the world's judgment eventually. One of these plausibilities was the idea that the right to hold slaves was a question of *blood* or race, and thousands of mean white men tyrannized over negroes on that plea. This fallacy led in time to the other extreme: that all questions connected with slavery must be judged by the principle, that it is *per se* criminal to own a slave. Had the true economic reason been the basis of all legislation on the subject and there would have been a series of ethical enactments, that would have restrained the immoralities of slavery and curbed the atrocious master or made him impossible.<sup>1</sup> As it was, the legal profession of America transferred to slave property the false British ideas of the absolute rights of property, and added to it the self-adoration of Anglo-Saxonism, that went under the phrase “Caucasian race” in America; so that slave proprietorship attained a sanctity that never was due to it, and which allowed it to say to all who would have reformed its abuses, “*Noli me tangere!*” Thus two false extremes (slave-holders and abolitionists) kept arguing and intensifying their respective false premises. And by 1860 there stood, opposite to each other, two monomaniacs, that were so void of all common sense that nothing but the *ultima ratio regum* would solve the heated quarrel. And we are still so much under the momentum of the war that followed, that we seem incapable of rectifying the false courses pursued by the extreme pro-slavery men, as well as those pursued by the extreme abolitionists. We are still far from that public action

<sup>1</sup> An ancient republic had a law disqualifying a man from owning slaves, if he maltreated them. We have the progressed reasoning hereof in our laws regulating apprenticeships. No state allows a person to be a master, unless qualified to educate him.

which, resting on the absolute necessity of the removal of a population, that cannot safely be an integral part of American society, takes early, positive measures to that end. And when we say "safely," we mean it for both whites and blacks, but especially for the latter; for we know, that if they remain, they will fall beneath the inexorable natural law, found for us anew by Darwin, "the survival of the fittest." Whether they shall go back to Africa, or whether places shall be found for them on some West India islands, or on the north coast of South America, are questions, which we hardly feel competent to decide. The first step is to understand the necessity of their removal; the next, a square, but *humane* consideration of the ways and means to that object; and we think it will turn out, that *several* localities, and they optional to the negro, will bring about the right solution the soonest.

But if we wish to be just to the individuals, the public men, and the administrations, that have had to deal with American slavery, we must take into account the constant shifting of the actual issues involved therein. It is certainly plain that the first purchasers of slaves, the governments that acquiesced therein, as well as the imported negroes, had very different questions before them, than their successors in this century. No one ever thought of importing blacks into Europe, for its society was hermetically sealed against them; but everybody favored, up to the middle of the eighteenth century, their introduction into the American colonies. The abstract question of slavery had about as infinitesimal an influence on both sides of the Atlantic, as the point sought to be ascertained by the old schoolmaster had, when he asked his scholars to figure out: how far the wagoner would carry two ounces who had carried two tons for eight dollars ten miles? Questions of will and its make-up cannot be measured as arithmetical problems. The motives of Great Britain in allowing slaves to be imported into her colonies, are sure to be misconstrued if we judge them from standpoints taken with reference to *British* home society. So we shall deal unfairly with the Fathers who signed the Declaration of Independence, if we measure their consistency in affixing their signatures to this international annunciation for American freedom, with their rejection of the clause, that accused the king of Great Britain with "violating the most sacred rights of life and liberty in the persons of a distant people who never offended him, by captivating and carrying them into slavery." It is atrocious to attribute to them, an aversion to say anything against slavery, when a much more rational and truer motive is near at hand, namely: their repugnance to sanction the dis-

ingenuousness of Jefferson, who wanted to lay upon the king of Great Britain alone, what was, if not a national, at least a general misconduct of the great body of society itself. And so, on the other hand, would it be giving false credit to the fathers if we attributed the insertion of the clause providing for the prospective prohibition of the slave trade by 1808 into the Constitution of 1787, to convictions of the absolute wrong of slavery itself. We know that the motive of some, who voted for this clause was to prevent future competition with America-raised slaves by imported ones. But this again does not make the measure any less statesmanlike in itself, for it diminished the momentum that would have to be resisted, politically, sooner or later.

One of the phases of slavery and negroism, to wit: its obstruction, yea preclusion of white immigration, has never received the full attention it deserved; and we think a few data from the census tables will prove useful towards a better understanding. They show, we think, that it is a populationistic law, that *negro* importation keeps from states, allowing it free white immigration. Take the following states for instance:—

	Total Population.	Foreign Born.	Foreign Parentage.	Total Foreign.
New York . . . . .	4,382,759	1,138,353	2,225,627	3,363,980
Pennsylvania . . . . .	3,521,951	545,309	1,151,208	1,696,517
New Jersey . . . . .	906,096	188,943	350,316	540,259
Ohio . . . . .	2,665,260	372,493	849,815	1,222,308
Indiana . . . . .	1,680,637	141,474	341,001	482,475
Illinois . . . . .	2,530,891	515,198	986,035	1,501,233
Total of six States compara- tively free from Negroes }	15,696,494	2,901,770	5,904,002	8,805,772

	Total Population.	Foreign Born.	Foreign Parentage.	Total Foreign.
Virginia . . . . .	1,225,163	13,754	30,794	44,548
West Virginia . . . . .	442,014	17,091	46,204	63,295
North Carolina . . . . .	1,071,361	3,029	6,464	9,493
Maryland . . . . .	780,894	83,412	181,362	264,774
Kentucky . . . . .	1,321,011	63,398	142,720	206,118
Tennessee . . . . .	1,258,520	19,316	36,326	55,642
Total of six Negro-mixed States }	6,098,963	200,000	443,870	643,870

Couple now, with this, the statement in the census of 1850—that “one quarter of the free persons born in the southern



states have left those states for other sections, and that only one-sixth have left the eastern and middle states"—and we see that the presence of negro slaves has, besides impeding *immigration*, also produced *emigration*. And this makes us believe, that if there never had been a negro imported into states north of the thirty-fifth parallel, the original tendency of immigration would have continued, and instead of the six states first named having added to their population through immigration eight millions, five thereof would have gone to the six last-named states; and the population, wealth, and political power of both these sections would now be about equal. Then they would constitute near two-thirds of the United States on all these points; and they would be not only the centre or middle of the country, but the gravitating point in all its ethical and social developments. That it is not so has been hastily assumed to be caused by slavery, and from this assumption it has been presumed, that since slavery is abolished, immigration and emigration will now take other directions and that there will be a populatory equalization. This is in our opinion a delusion. The negro is even more repugnant to the white immigrant as a freeman, than as a slave; and exactly to the degree to which the freed negro will be present, just to that extent he prevents white immigration and produces white emigration. To be a negro-owner may attract some whites, but to be the competitor of negroes in work or skill or social position, repulses every one, whose mind is at all desirous of an enhanced existence. Such competition involves a degradation to social conditions, which the white race has had a century or two behind itself, and which it will never again, voluntarily submit to. Free whites and free blacks are in each other's way, and civilization does not grow between them.

The prohibition of further negro slave importation in 1810 was opportune for reasons already stated in another chapter; but it came too late to allow the states, *most fit to receive European immigration*, to be benefited by it. It should, to have effected that purpose, have been passed in 1753, the period before which, as Carey of Philadelphia says, "the trade in negro slaves to the American colonies was too small to attract attention." In 1790, 512,282 of the 697,897 negro slaves in America were in these six states (those south of Mason and Dixon line), and there were besides 50,000 north of that line. Between 1790 and 1810 the principal increase in the number of slaves was still north of the thirty-fifth parallel, and this continued until 1820, by which time the large demand for southern plantation negroes produced an interior slave trade, that took from Virginia and other eastern states, each year their natural increase in

negroes. The amounts realized from these sales must have amounted to several hundred millions, and this produced a deceitful prosperity to the sellers—deceitful, because the sums received covered little more than the cost of raising. Had the system of agriculture, of mechanical trades, and of industrial pursuits been of a high order, and it would have produced other and better wealth; but this was impossible, in a society, largely mixed with negroes, so that slave-raising seemed the only source of gaining some capital. But this was again repugnant to the finer feelings of the whites, especially the females, and many of them emigrated, rather than be connected with it. A *capital-forming* society could not for these reasons develop in the south to any high degree, so it exported part of its population, and the whites often went along and formed new settlements in the west. The object of these was twofold—(1) To live upon the labor of the slaves which their parents often sent with them as a start in life; (2) to grow rich on the rise of their lands in price. Each such exit was a depletion of home society. So, indeed, was it also as to all interior emigration from the northern states, but there was this difference: the depletion of the north was more than made up by immigration, while in the south the importation of slaves ceased in 1810. And these are the causes, that made southern society stagnate, populatorily, as compared to that of the north, which was being continually quickened. A political scientist formulates this proposition thus: "The north was in a capital-forming condition, while the south gathered little or no capital." Now, we know, that no human society can grow, that does not lay up wealth at a progressive ratio measured by the growth in population. This becomes apparent, when we compare the two sections of the respective six states already named. Assume that there are in each about one hundred millions of acres arable land, and that the value of each total was one hundred millions in 1750. Now we find that in 1870 the census reports the value of the one hundred millions of arable acres in the six southern states at 1050 millions, those of the six northern states at 5188 millions. The loss to the first six states by negroism is 4000 millions.

Another hallucination of the southern whites was their persistence in seeking to create political preponderance through slavery. It put a beam in both the northern and the southern eye, and neither could therefore form a sensible public will upon the subject. The north hated slavery and slave-holders more than was just and fair; the south cherished it beyond its merits. The south had the least sagacity from the very start; it agreed, thinking to escape taxation, to have only three-fifths of its slaves

counted as the population upon which representation should be computed. This was equal to a loss of forty out of every hundred of population, and produced a steady proportionate sinking of political power. It threw that section into the *defensive* from the beginning (1790), and at every census more sharply. But if, after the blunder was committed, the southern statesmen had taken that policy wisely and intelligently, no serious harm would have come to them from it. They early took the *offensive*, and that, as every military man knows, is very hazardous as against a strong and increasing adversary; it never can be pursued safely except for a very brief time, and then only by superior tacticians. As political strategy it is very seldom, if ever, a safe policy, because there time for the formation of the public will is everything. As time was running against the south, it was fatuity to even *appear* in an aggressive attitude, much less to assume it. The annexation of Louisiana, Florida, and Texas had that appearance, and the repeal of the Missouri compromise was a wanton violation of a truce. As the south had agreed to the Ordinance of 1787, that fact aggravated that breach of faith, and it had to learn a lesson written on every page of history, that no thanks are given for political mistakes, generous as they may be, especially not, when they were committed in favor of a correcter social economy. Time records them as rightful acts, and denies the resumption of previous conditions. That the south should feel petulant, especially as it never received the equivalent (lower direct taxes), was very natural; but it was unwise, for it had really nobody to blame but itself. Nevertheless it was mean in the north to begrudge the south the valueless privilege, that of reclaiming its fugitive slaves. A slave, once a runaway, was never again good property to the owner, nor could the society be benefited to which he escaped. All that could come out of northern refusals to deal fairly with the owners, was an aggravation of southern petulancy; for they now felt that, besides being self-duped, they were maltreated. The attachment to the Union, that had always more sentimentality for itself in the south and more sordidness in the north, was weakened in every southern heart, as it became plain that they were to have in it no additions, but preferred step sisters and brothers. It was to them what attending an opera would be to an Austrian, in which the songs of Prussians constituted the main music and the reserved front seats were all occupied by *claqueurs* specially instructed to shout for all the invidious passages.

Bodies-politic, that are interested in a cause whose rightfulness is disputed, must never surrender an iota of the principle

on which it rests, or else they only inaugurate its decline and fall. And the southern states did this very thing, when they agreed to a different representative count of their slaves from that of negroes north, to the prospective abolition of the import slave trade, and to the Ordinance of 1787. The north accepted these concessions as admissions, that slavery was wrong in principle, and soon complained that *any* slaves were *counted*, that there was an internal slave trade, and that any of the virgin (*sic*!) soil of the west was polluted by slavery. The south looked all this time, as if it were seeking to regain as right, what it had admitted to be wrong. And gradually and very adroitly the impression was created, that the slave-holders were the "*enfants terrible*" of the Union, that they and their cause were the corrupting elements in the federal government, and that but for them the model republic would have a pure administration. Europe, ignorant of the true facts, believed this falsehood; and England sent missionaries, and they aroused a corresponding agitation here, so that gradually three representative men—Sumner, Seward, and Chase—could agitate anti-slavery issues, that revealed to the south its political weakness and its untenable position. Alarmed, it lost its patience and its good sense, and accepted as a gift, from the hands of a northern demagogue, Douglas, the repeal of the Missouri compromise. The world took this step as a confirmation of all the falsehoods that had been uttered about American slave-holders. The plain simple truth was, that universal suffrage, universal qualification for office, and ingrained partisanship, had borne its usual fruits—much *reigning* and precious little good *ruling*. And slavery was made the scapegoat of common wrongs, in which *all* were guilty. These false accusations cast their shadows backward upon the purest public men, America ever had, such as Washington, Jefferson, Madison, Monroe, Jackson, Polk, and Clay. Then some northern snobs felt called upon to vindicate them from being slave-holders; and American greatness and purity were insulted by being defended by American littleness and hypocrisy! And all because the framers of the Constitution placed slavery into a false relation therein!

Motives of interest, not notions of abstract justice, and still less wise outlooks into the future of American society, guided the action of the public men, who conducted our politics as to slavery after 1848. Nor do we say this to blame them for it; we only regret, that they did not realize this fact to themselves. Had they done so, and the dense fogs, which, their love of appearing in the character of liberators and philanthropists, raised over their practical good sense, would have disappeared, and they



would have seen that a false social condition, such as slavery, when it is intertwined with the domestic concerns of a people, cannot be eradicated by sentimental glances at it; that it takes a square present halt, and a radical but patient change of policy for the future. Slave property should either not have had any exceptional position in the Constitution at all, or its legal status should have been recognized in plain terms. As it stood, an indefinite feeling of uneasiness was inevitable, and it prompted the suggestion of palliatives. But they could never be adequately applied, because the federal authorities, who alone had the means to do it effectively, held an equivocal relation to the thing to be cured. Of these palliatives, colonization to Liberia was the more prominent. The scheme was never practicable! The locality was unfit for the purpose to begin with, and it never would have been chosen if a sickly, politico-religious sentimentality had not suggested the idea that Africa could, in this return of negroes to it, be civilized, religiously and politically, after American patterns. Turning the negroes of the United States into missionaries of puritanism and republicanism has had in our age but one other similar absurdity, to wit: in the proposition of Rev. *John Henry Wichern* to pick up from the streets of German cities the bad boys, and to educate them into Christian ambassadors for the religious redemption of the heathen. Why attempt more than the simple immediate necessity? Was not the task heavy enough? Why raise exotic flowers when a carrot or a bean sufficed? Why add to the de-negroization of North America a fancy missionary project, and turn a feasible duty into an unfeasible crotchet? Why migrate 3600 miles, when 1500 were all-sufficient? West India and all the coasts around the Caribbean Sea were open to us and within a week's journey. Negro labor was wanted there, and if exported to these places it paid all the expenses of the journey, and a fair remuneration to the owner here besides. The governments there were ready to negotiate, even on the basis of the future freedom of all offspring. What was in the way? Nothing else than our old curse, that, instead of assuming that we either have or can create political agencies for any and all legitimate purposes, we wrangle over the question, whether it is constitutional in this or that public authority to do what ought to be done. And thus we stood and stand self-confounded before questions which we ought to meet like men.

Regrets at lost opportunities are now all that is left to the United States of the subject of slavery; regrets not only, that it ever was introduced into America, but regrets also at the

manner in which it was abolished. The bitterest cud to chew has, however, Kentucky; for that state refused in 1850 (being led captive by a brutish public will) to abolish slavery prospectively, as advocated by *Henry Clay*. It was done at a time when any slave state had it in its power to become the leader in a renewal of the old policy of gradual abolition, that relieved the parent state of a curse without serious difficulty to its society. The movement had the right leader personally; but he had misplaced himself politically, for he could no longer address the whole people of Kentucky, since he had no followers outside of his party. His political opponents took advantage of this; they used slavery prejudices for his overthrow, and gained a partisan victory for themselves. The south was ever the victim of this low species of demagogism. Had Kentucky then abolished slavery, and Virginia with Missouri, Maryland, and Delaware would have followed before 1860, and these five states would, by 1875, have been almost emptied of negroes. The advantages, that would have accrued to these states, would have induced North Carolina, Tennessee, and Arkansas to also adopt prospective abolition, and by 1900 not a slave would have remained north of the thirty-fifth parallel. The repeal of the Missouri compromise would never have been thought of; the south would have remained the good leader it was up to 1844, in the several questions of political economy, such as paper money, the tariff, and finances generally. Its instinctive aversion to demagogues would have kept the democratic party clear of the corrupt northern men, who merely used southern proslavery proclivities as stepladders for their vaulting ambition. Indeed! this failure of the abolition of slavery in Kentucky almost persuades us that fate rules the affairs of nations, for there were numerous good reasons for this act, and not one sound one against it. The old proverb—

“*Quem Deus vult perdere prius dementat*”—

seems the only solution of this incomprehensible infatuation. But we think we have shown the rational cause, to wit: that American parties had become mean enough to seek their rise by their country's fall.

It presents a sad reflection on human nature, that American slavery was the more difficult to abolish and to reform, the more wealth the slaves produced. It made the owners more avaricious and their northern fellow-citizens more envious, so that neither discussed the subject in the right temper. And as both lost their calm judgment, both became irritable: the non-slaveholders, because they feared that the money power, which

was growing up in the south, would be too strong for freedom; the master, because he was apprehensive that sooner or later there would be a violent abolition of slavery. After 1845, and especially after the annexation of Texas, these counter-feelings became too strong not to be visible to the ambitious of the land; and they no sooner perceived it, than they determined to profit by it. The multitudes in both sections became now the victims of their respective hates and fears; and offices and emoluments were showered in both sections upon those, who were most adroit in catering to the diseased public mind. The press mingled in the *melée*, and was enriched by it. It fed the respective popular predilections, for man pays for nothing more freely than the fanning of his prejudices. All, editors, publishers, and orators prospered, who flattered the respective infatuations, while all, who tried to enlighten and sober them were retired. And thus it came that Webster, Clay, Benton, Marcy, Sam Houston, John Davis of Massachusetts, and men of experience and calm judgment, had to pass out of public life; and personages such as Sumner, Chase, Seward, Douglas, Pierce, Atchison, Wigfall, &c., were taken for statesmen and led the masses. The most glaringly selfish motives were overlooked, and the truest patriotism was misrepresented. Courage to face a deluded public opinion was called "timidity;" wise forecast was nicknamed "time-serving;" and warnings against impending catastrophes were derided as "old fogysm;" while appeals to sectional animosities were applauded as "love of liberty." Violations of the Constitution were cheered as political progress, and setting aside the laws was held to be service in the cause of the people. No wonder that 1861 found us a headless multitude.

Slavery is now abolished, and negro suffrage established; but has anything been done to correct the chief error, the tendency towards a permanent intermingling of two incongruous races? The freedom, which the north gave to the negro rests on motives for subjecting the former master to party power; and the negro is to be the tool for this purpose. The price paid him for this service is the conferment on him of the elective franchise, and an office or a cadetship here and there. And thereby the power to seize all the state governments where the blacks are in the majority, and to use them, under the extremest idea of state sovereignty, for the spoliation (by arbitrary taxation) of their former masters, is also to go along with it. This power is dependent on federal bayonets and the will of demagogues. They are again contingent on the retention of power in the hands of the Republican party. Has not the negro simply exchanged social for political slavery? Must he not, to retain

his social freedom, keep co-operating in enslaving his own section? To master his old master he must help to master all southerners, himself included. Were he to help the whites to free southern society from northern spoliation and to enfranchise American commerce, and what a hue and cry of ingratitude would be raised against the negro! And yet it would be the best use he could make of the elective franchise. Ingratitude! For what? For the permission to be the destroyers of the welfare of the very country they inhabit?

We would like to hear an argument on the question: Which of our public men had the best hearts and the clearest heads—the Fathers who, in March 1790, resolved “that they had no jurisdiction to do anything for the emancipation of the slaves or in reference to their treatment in any of the states;” or the sons who, January 1, 1863, abolished slavery as an act under the war power, and gave them the elective franchise a few years later? Such a discussion would bring out the salient points of the whole subject. We think the patriot fathers were wiser and humaner than the partisan sons.

American slavery furnishes a long list of paradoxes in human behavior. Some of the very finest and purest intellects of America maintained the rightfulness of slavery, and some of the coarsest and impurest minds opposed it. The amount of casuistry, sophistry, and plausibility expended, on both sides of the argument, will look prodigious to the future historian; indeed, the whole history of it, is the most voluminous record of the *possible* aberrations of the human mind. That men full of “the love of love,” using the expression of a writer in “Blackwood’s Magazine,” such as Jefferson, Calhoun, A. H. Stevens, and Clay, should defend, nay advocate slavery in any of its aspects, will be as unexplainable as that such fine intellects as Seward, Andrews of Massachusetts, Frelinghuysen, Carl Schurz, and Trumbull should lend a hand to the most desperate and withering of all modes of abolishing slavery, that by presidential proclamation. That Sumner, Chase, Giddings, and Garrison should applaud such work we might expect, for their reason was beclouded by their idealities, but no such plea exists for the others. It is defended as a war measure, and the plea held forth is, that southern society was at the mercy of the victors. Suppose we concede, for argument’s sake, this monstrous assumption; and is it not plain, that if the north had the right to take the slaves, it also had the right to take lands and homes for them? It gave the negro bare freedom, why not all that is indispensable to its maintenance? Why not guard against negro vagabondism?



Equally paradoxical was the behavior of these persons on the economical argument. Those, first named, denied, that the institution had had, or would have, any bad ultimate effects on either master or slave, and the second refused to recognize the most palpable present profitableness of slavery. Both were acutely inventive in advancing assertions and in exaggerating virtues as well as faults. "Uncle Tom's Cabin" is a specimen of this sort of romancing. Its delineations are as false of the institution in general, or even in the average, as they are true of a few solitary instances. Its argument amounts to the same as that of the Mormons, who argue, against the marriage of one man to one woman, from the fact that there are prostitutes in the midst thereof. On the other hand, *it was* casuistry to try to prove the rightfulness of slavery by instances of great kindness from numerous masters to their slaves. Benevolence is not justice, nor does voluntary good-conduct, by a part of a society constitute an excuse for neglecting proper legislation and enforcement of laws, so as to compel others to behave properly also. A body-politic that tolerates slavery, owes it to itself to see, that the relation is not abused; and if it were true that legal restraints upon the master are incompatible with the freedom due to domestic concerns, it would only prove slavery incompatible with social order. Any social relation that places any human being under the absolute control of another person, is a perversion of the fundamental reason of all social interhabitation. It is tyranny and barbarism, not civilization.

The lowest grade of casuistry was the argumentation *pro* and *con* from the Bible. Future generations will hardly believe that audiences could be intelligent to whom orators could present such reasoning in the nineteenth century! Nevertheless, it is true that there was hardly a speech made on either side in which the Bible was not produced as conclusive against the other side. And we have been present and have seen the strong effect it had on persons, whose education was far above the average. Much of this sort of dialectics was, we admit, mere *argumentum ad hominem*, and sometimes (not often) *ad absurdum*; but still it remains a fact, that theological disquisition and sophistry was largely used in the discussion. Indeed, it may be truly said that the Bible was as often quoted as the Constitution, and there were plenty of people who held the one to be as much the law of the land as the other. There were often ludicrous scenes when, after public meetings, the auditors set to disputing among themselves; then it became plainly visible that religion and law formed an indiscriminate *quodlibet*

in the public mind, and that it was better versed in the Bible than in federal law.

It will be remembered that the anti-slavery conflict began in the church conventions, between the preachers, long before it troubled the political parties. And if we accept the skirmishes in the clerical assemblies as reconnaissances in force, it will help us to understand the whole movement. No church had ever recognized the allegation, that the negro was not a human being. That gainsayed, and where was to be the base of the operations of the Christian pro-slavery champions? Thus the south had lost its base before it came into battle with northern partisans, and from the first it was a *lost cause*. No political tactics could avail to prevent final discomfiture. The southern people, including the negroes, were zealous church-folks. The ladies particularly needed, as aid in maintaining social proprieties (morals), the church discipline much more than their northern sisters. In fact, the churches were in the south the regulators of household manners much more than they were in the middle and northern states. And as the southern churches *would* be in national church organizations, they subjected themselves, and the social conditions or moralities they represented and shielded, to attacks in which states-rights could not be pleaded; for in religion orthodoxy overrides all sovereignties. There a thing must be right *per se* or be corrected. The south had no constitutional guarantees, not even as fictions, in its national church rulings. Hence it was *there* first attacked.

The south deprived itself everywhere of intelligent friends by its Bible arguments and political abstractions for slavery. The world was beyond such ratiocination. With them the south got upon the inclined plane, that led, sure as gravitation, to an unwise and rough-shod solution of the question. It kept it from thinking out wholesome prospective reform measures, which the sages of mankind would have everywhere supported. The south thought that, when it carried elections, it was a demonstration, since it implied divine approbation; but we all now know that they expressed nothing but popular passions.

Mr. Jefferson saw, that exporting slaves westward, and especially south-westward, was a riddance of slavery in one sense. Why did not his perception reach a little further, and attain the reflection, that as Central America, the West India Islands, Surinam, &c., were buying slaves, it would be good policy to enter into treaty stipulations for United States colonies and regular shipments of negroes to them? The answer will be: The price was too low. But we reply, that the

higher prices which their lands might have brought would have more than made up any loss on the negroes. But no such comprehensive policy was possible in a government ruled by counting heads. All they could be induced to do was to filibuster for their respective ideas, but in a very rough form.

Had the southern statesmen analyzed and corrected their inclinations in favor of the annexation of Mexican territory, of Cuba and other West India Islands, as well as their schemes about Nicaragua, Panama, &c., and it might have led to a comprehensive West Indian and Gulf policy, and a gradual emancipation as well as exportation of negroes. It sheweth great narrowness of mind to have no policy except south-western annexation and then emigration. There was certainly no necessity that the countries to which the negroes were sent should be a part of the United States.

The question hinged on the square inquiry: Shall this country be purely European or a mixed White and African America? And it should not have taken sensible southern men long to arrive at the conclusion that this land is fitted for Europeanization and unfitted for an Africanization. What was wanted was a wise negro colonization, so as to deplete southern society of its black population and make room for white immigration. A few more statistics besides those already given will explain this. In 1790, New York had 21,324 slaves; in 1830, 75. Virginia had, in 1790, 203,427 slaves, and in 1830, 469,757. New York received some twenty millions for the negroes it sold, and it replenished itself with 400,000 white immigrants, worth four hundred millions, that cost it nothing. The four hundred and twenty millions expressed themselves on the prices of real estate, and are to-day the bulk of the wealth of the great families of New York.

Virginia bought up to 1820 as many slaves as it sold; it attracted very little white immigration. Though a more fertile and healthy country than New York, its real estate did not rise much in price. That they had a false agricultural economy is seen in their selling their slaves, in the emigration of many whites, &c. Had she sold all her slaves and she would have received, at \$500 a head, 234 millions, and the influx of white immigration would have amounted to at least as much more. This would have made for every white person *per capita* \$333, or \$1650 per family. Virginia, instead of sinking in the scale of wealth and power, would then have risen. She could and would have had canals to the west before New York, and she would have remained the political and commercial centre of the Union. She would then have ever been the mother of states-

men, a much better maternity than to be the breeder of slavery. Southern Ohio, Indiana, Illinois, Kentucky, Missouri, Arkansas, were her natural back-countries, and they would have been her stand-byes in defending the whole country against northern spoliation. The policy she did pursue doomed her to a comparative standstill, which means in America, more than anywhere else, a retrograde movement.

The Atlantic southern states, that gave tone to the southern mind, because in them were the men of culture, might have seen their errors in the constant emigration of its white population, while they had hardly any immigration either from the north or Europe. And this the more, because the majority of those who left their states went north. Compare the two shores of the Ohio; they were settled originally by about the same people; and tell us what other cause there was for the more rapid and better development of the populations on the northern shores than the fact that they were augmented by new-comers, whose raising was at the expense of foreign lands? Ohio had at the end of fifty years a duplicate of 450 millions; Kentucky one of 317 millions, of which the slaves were  $68\frac{1}{2}$  millions. The latter state received earlier settlers than the former, but Ohio had overtaken it in thirty years in wealth and population. Ohio had then of immigrated foreigners 218,193, of immigrated Americans 541,870, or a total of immigration 750,063, and 1,215,876 natives, or total population 1,980,329. Kentucky had of immigrated foreigners 31,420, of immigrated Americans 150,874, or total immigration 182,294. The natives of the state numbered 587,297, or total free population 771,424. The slaves amounted to 210,981, and the entire population was 982,405. Ohio had in 1850 double the total population, four times the total immigration, and a seven-fold foreign immigration.

The census of 1850 does not state how many of the slaves were imported into Kentucky; but as the increase of the whites was 25 per cent. and that of the blacks  $16\frac{1}{2}$  per cent., we shall not go far wrong to assume that 100,000 were imported. What was paid for them is no longer ascertainable, but it was not far from fifty millions. It accounts for a quarter of the difference in the two duplicates, and the other three-fourths are due to the larger immigration to Ohio. This state had 950,063 immigrants, Kentucky (including slaves) 282,294; Ohio had therefore 467,269 more, whose money value to the state was at least 225 millions, really 375 millions. But their value was not expressed fully in the duplicate, because the assessed valuation for taxes was low. We have no data by which to find whether



the Kentucky valuation was also low, but presume that it was even more so than Ohio. The difference was not great, and for comparative purposes it was reliable. That the Ohio duplicate, when thus compared, does not show all the higher increase in wealth, there really should have been in consequence of its larger immigration, brings us to a new phase of this subject, to wit: the relative *nett* earnings and savings of the two populations. And this brings up the inquiry into the respective grades of living, in food, house-room, clothing, and education.

We find no estimate of the *gross* earnings of the people of either state in the census of 1850; so we have to use the *nett* earnings as indicated by the comparison of the years 1790 and 1850. The *nett* earnings of Kentucky, including slaves, were 317 millions; those of Ohio, 450 millions; while, if its population had earned (*nett*) more than that of Kentucky, they should have been, including the value of her immigration, at least 650 millions. What became of the missing 200 millions? Will anybody say that the *gross* earnings were less? No! So there can be no explanation except larger expenditures. And we find them in greater outlays for food, for clothing, for education, and comfort, in Ohio, things that do not get on the duplicate. In other words, free labor lives better, expends more than slave labor; and therefore the latter has, in spite of higher *gross* earnings, lower *nett* earnings. The difference would have been much larger, if all the inhabitants of Kentucky lived on the low scale of the negroes. But that was otherwise. The master's expenditures were much greater; he lived in a costly manner, in fact luxuriously. His civilization was hyper-civilization, that of the negro more or less barbarism. Slavery produces these extremes of social condition everywhere, and both are perilous to society. The worst specimen is in Surinam (Guiana), the best are presented in North America, and of these the better existed in Virginia, Kentucky, and Missouri.

There can now be no doubt that if the course of the Fathers—that of abolishing slavery prospectively, state by state, with a southward direction—had been continued, there would have been no serious contention about the extension of slavery south-westward. And if it had been coupled with a wise negro colonization policy, and a protectorate had been maintained over all colonies outside of the United States, then by 1850 there would not have been a slave state north of the thirty-fifth degree, and we should have had negro colonies all around the gulf, the Caribbean Sea, and among the West India Islands, much to the relief of the United States and the advantage of the colonies as well

as the home country. Our negroes would have been much better than any imported coolies. With Virginia, Maryland, North Carolina, Tennessee, and Kentucky under higher industrial conditions, freed from the tendency to slave barbarism, as well as to white hyper-civilization, would have been with Pennsylvania, New York, New Jersey, Ohio, &c., the centres of trade and intelligence, and the New England tariff policy—that hindrance of our full progress—would have been met by a much higher intellectual opposition, than that given by statesmen clouded in their views by slavery. It would have been commercial and cosmopolitan in its arguments, and co-operative with the politico-economic scientists of Europe. What New York *is*, would have been the condition of these dozen central states of America, and the whole Union would have felt the impulse.

With industrial establishments as far south as the thirty-fifth degree, with Chesapeake Bay studded with harbors for a world's commerce, and cities full of merchants, that have high mercantile culture; with New York and Philadelphia as they are now, with the inland states all having the shortest routes to the sea-shore, with slavery and negroism going out of the country, what a country and a people we would be at this time! What a future it would have had! It would indeed be *the new world!*

There would have been no Missouri compromise in 1824, nor any "omnibus bills" in 1848, and, of course, no temptation to break faith with the north in 1854. For public opinion would have been poised on an unalterable determination never to accept slavery or the negro, as permanent parts of American society. Jefferson's presupposition that both were temporary conditions, that should be kept moving south and south-westward, would have been the persistent, intelligent, virtuous, and wise public mind of all our people. Douglas, Chase, Seward would have been as impossible after 1840 as they were before. The abortive attempts on Central America, which were finally squelched out by the execution of Nicaragua *Walker*, would have been directed to useful ends, for their energy would have been directed by wisdom. What was dark in Aaron Burr's plan, would have been shaped fit for light and a world's admiration.

We reject, then, the so-current idea, that there was an irrepressible conflict, and that slavery could not have been got rid of without a war. The north and its ambitious men needed this excuse for their aggressions, but the cause of wise statesmanship did not. The great evils of slavery, the double demoralization, already spoken of, of both master and slave, need not have taken effect in America; nor would they have occurred

for centuries, even if no great change in policy had been adopted. It is unadulterated nonsense to talk of a slave aristocracy in America, or of its effeminacy, or of a desire to subjugate the north, or of a blunting of the moral or intellectual sense by it. The southern whites were as ambitious as the northern whites, but not more so, nor in a corrupter sense. The south had some idiosyncrasies of its own, but not half so many as the north. It was far from being up to the highest standards of political and social science, but it had never been as much befogged in phrases and false assumptions, as to the nature of government, as the north was. It had, in the corrected sense, far more liberty in its composition, for it could never lose sight of the touchstone of true freedom—*order*.

Moreover, it must be stated, that even if philanthropy were the sole criterion, still the south had more of it than the north. The natural aversion of white persons to colored folks had wore off in the south in the daily contact with each other. There was always more *pro-negro* sentiment in the southern slave-holder, than there was in the northern slave-seller, or his successor, the northern slave-liberator. And we feel justified in asking: Would anti-slavery ever have been popular in the north, if the abolition of the institution would have imposed upon it as great pecuniary sacrifices as it did on the south? The amount of good done in taking a million of negroes in a barbarian state and making semi-civilized folks of them, has never been credited to the south in the criminations against slavery. The negro brought nothing to this country, except his brute physical force, and all he has become since is the result of white men's care of him. That slave-holding was not all cupidity and love of gain, we may learn by seeing the kindly feeling the negroes to-day bear to their old masters. That the benefit conferred upon the negro and the owners might and therefore should have been greater than it was, is also true, but that does not take away the credit they deserve for what they did.

The whole subject is, as stated, full of paradoxes. Who can reconcile the intimacies between white males and black females, with the doctrine, that the latter were not human beings? Are not the mulattoes living contradictions of the whole theory of blood and race being a justification of slavery? No person could be twenty-four hours in a southern household without witnessing incongruities and inconsistencies with this theory. We have seen white babies at negresses' breasts, and their white mothers sitting by, and even once we saw a black baby at a white lady's breast. So were there other inevitable

familiarities, that convinced us, that very few, if any, southern people really believed that negroes were not human beings. We have been south both before and after the war, and must say, that we were sorry to notice that there were there social habits which, if not arrested, will make the negro an integral part of society. We mean by this, that the social economy is such, that the black man is indispensable to the maintenance of the whites, and that the whites are necessary to the negro's economic and commercial outcome. Cheap domestic service has its attractions as well as its drawbacks. Every southern household has much more male and female help than northern households, and in time this will become an inseparable element of southern society. We were struck with the similarity which Russian families present in this respect to American southern families. And we have no doubt, that the traces of American slavery will retain their impress on American society longer in the domestic arrangements, than in any other part of social life. We cannot help remembering, in this connection, that Martha Washington is the model lady of America, that she had a slave household; but neither can we forget that the best domestic economy we ever saw in America was in a northern home, where there were no servants, and the family, both old and young, male and female, co-operated in doing their own work. And we still adhere to the opinion that the latter relation is by far the most desirable for America.

We would, in conclusion, neither extenuate the wrong there was in introducing, maintaining, and extending slavery; but neither would we refrain from expressing our opinion freely on the party hypocrisy, that abolished slavery in a hasty manner, and as a reckless war measure; nor on the perfidy of partisan Republicanism, that gave the negroes the elective franchise. Nero's fiddling over burning Rome is, we know it, a false charge, but it would have been an innocent amusement compared with the misgovernment, the pillage, and the villanies imposed on southern society by negro suffrage. This monstrous finale of, originally, small economic errors and wrongs, begun in 1620 on the coast of Virginia, lets us see how evils grow and fasten themselves on human society, if ethical developments are falsely directed. Hardly noticeable a hundred years after their origin, they appear significantly on the birthday of independence, and produce an equivocal utterance. Next they enter the Constitution as a political blunder, and perplex ever afterwards the Indian policy of the south, forcing removals that should never have occurred. Then came impracticable colonization schemes, in which an awakening conscientiousness



sought to conceal its blushes beneath fine sentimentality. And all this time, and subsequently, political bafflings like the Missouri question and its compromises. The many well-meant social efforts at the gradual abolition of slavery culminate at first into a wise prospective abolition thereof in all the northern states, and prohibitions of its extension to the western territories; but the increased value of slaves, the importation being inhibited, stops this policy and prevents its renewal in Kentucky in 1850. Then came open and secret political abolitionism, which created political pro-slavery propagandism, and the two fostered party corruptions, election frauds, John Brown fiascos, Kansas imbroglios, sectional exasperations, and finally war. *It* destroyed more wealth than all the slaves in North America ever produced. It left debts on the Union, the states, and their municipalities that are now the cancer in our politics; for it has bred the spirit of repudiation, first as constitutional amendment forced on the south, and then as reaction by popular recusancy in the states and their municipalities. The fruits of the war are a disordered currency, paper money, legal tender acts, outrageous taxation, corruption in high places, even in the White House, election frauds, soldier voting, negro suffrage, carpet bagging, negro vagabondism, a disintegrated southern society, protective tariffs, crippled shipbuilding, and a foreign commerce in foreign bottoms; a demoralized public service, a President counted in, and holding on under cover of good intentions! And the negro? Still a victim! How true of such wrongs are Goethe's words:—

“ Like chronic diseases they are hereditary ;  
They pass from sire to son, to all their progeny,  
And move insidiously from place to place.  
They turn sense into nonsense, benevolence into a plague :  
Woe unto thee, the grandchild of such things ! ”

We are glad that the subject passes from our hands.

## CHAPTER XIV.

## EMIGRATION AND IMMIGRATION.

“It seems a natural law of mankind to keep moving.”—*Gregorovius*.

FROM time immemorial America has been a country immigrated into; and those, who came and stayed have sought to ascribe to it some self-flattering reasons for this fact, and have called it: “Asylum of the oppressed,” “Refuge of free labor,” and “Land of the free, and home of the brave.” Its enemies invented nicknames such as “Abode of the fortune-hunter,” “The country that has no settled homes;” and misanthropic *Lenau* added:—

“It is a land to which crime  
Flies trembling o’er the sea.”

To us all these designations are fancy sketches, for they spring from transitory conditions, that are not even truthfully described. We long to realize to our mind an America, that neither receives immigrants too largely, nor furnishes many emigrants; and whose population is not migratory as now; for then only will come its true civilization. But in contemplating such a future American society, there rises before our mind, like a deep shadow, the fact that scientific men are still hunting for an indigenous American, that they have really given up all hope of finding him in the living races of this land, and that there is but little hope even of finding his buried bones. So far as North America is concerned, the inhabitants were ever roaming, never correcting social evils except by moving. And in Central America the Spaniards found, on arrival, a faith in and ready submission to a prophecy, that men would rise out of the ocean and subjugate them; as if this fate was but the renewal of an inherent law of the land and a repeating of an old tradition. And we ask, not tremblingly, and yet not without anxiety: Whether a similar end awaits our posterity? Our children smile at all such apprehensions, and as theirs is the future of this country, be it good or bad, we leave them to their joyful disposition; though we fear their cheers are like those of

the Roman gladiator who cried: "*Ave Imperator, moratori te salutant.*"

Reflection will teach us all, that large migrations are, *primâ facie*, evidences of abnormal *social* conditions, both in the country from which they come and that to which they are directed; for, if the society in either were normal, it would neither receive large immigrations nor emit large emigrations. The chief object of true civilization is to abate in man his natural disposition to roam, and to produce a settled or, as we Germans say, *eine sittliche* population. To this it may be replied, that the fault is oftener in the disposition of the wanderers than in society; and we admit this to be true of some individual cases, but cannot accept it of large migrations. Such migration is evidence of a social epidemic. It attacks indeed those first that are predisposed to it.

All social phenomena are manifold and complex in their causes and effects, and this is true especially of human expatriation. An emigrant's final departure is always the result of many conjunctive reasons; it is mostly a last resort, after several previous efforts, to make it feasible for him to remain, have failed. Want of subsistence has been held to be the leading motive, but upon examination it will be found to be seldom the chief, and never the only cause. Personal, family, social, political, and religious irreconcilabilities have to do with it, and often several flow together, so that it is hard to tell which preponderated. Goethe's remark, that "a deer does not flee because it is guilty," is true of nine out of ten emigrants. It is also false to assume one species of emigration to be meritorious, another to be meretricious. The fact is:—the religious pietist, the political pedant, the wealth-seeking banker, the merchant, the mechanic, and the laborer, one and all, move from self-interest, however varied the form of it may be. The arrivals of men like Zinzendorf, Wesley, Asbury, Rapp, Owen, the Puritans, and Kossuth were of no more, if of as much value to America as that of the millions of nameless wanderers, who came to America to work, to trade, and to raise opulent families, and to enhance their own existence.

It is likewise an untenable assumption to presume, that either prolific or languid procreation, that leads to emigration is, *per se*, either moral or immoral, or to speak of a country as over or under populated. We lack for all such generalizations the standards by which to judge; and if we indulge in imaginary ones, we are induced to try experiments and regulations, that always prove futile and are generally ridiculous. The Catholic Church attempted it by its confessional and its ascetic orders; but we look in vain, even in countries most implicitly under

its sway, for the populatory equilibrium between the number of inhabitants and the means for satisfying their wants or ideas of comfort. The migration of nations—the worst emigration and most destructive immigration the world ever saw—received a new impetus from Church proselytism. The clergy blessed also afterwards the most ferocious *Conquistadores*. They came from a Spain that could not reconcile population with social conditions. And Ireland kept producing population upon population, for which its clergy could find no use, except to emigrate. The better colonizations have all emanated from Protestant countries. Mexico, Cuba, Brazil, &c., are to-day more voracious of immigration than Canada or the United States. We insist, that large emigrations and immigrations are a low order of solvents of social complications, when population and the supply of its wants are in disproportion; but any interferences by public authorities, be they clerical or political, are sure to be worse. They act from *a priori* assumptions, and without the advice of political economists and expert statisticians, and never find the true measure and degree for their acts. To solve such questions right, it takes big minds and hearts, and both illuminated by science! Nations and governments have in free emigration and free immigration an excellent meter for indicating to them when their society is rightly and when wrongly conditioned. Had America from the first studied more carefully how to create settled societies, and refrained from all those acts that unsettled them, and it would have had less emigration as well as immigration, and still had an advancing society. A growth of population caused mainly by immigration never forms good society.

The most costly production of wealth the world ever saw is that procured through imported or immigrant labor. It was barbarism to raise offspring for slave markets; but is it civilization to procreate children, sure to fall into the hands of emigrant ship-agents and transatlantic mercenaries, who want laborers that will produce them extraordinary riches? It may relieve, for a little while, the home authorities from doing their duty to society, but it introduces immeasurability into the new commonwealths. The people of the latter become more uneconomic than they would have been without it, and their conduct assumes a disagreeable grotesqueness in their conduct and expenditures. Labor and capital, or rather the immigrants and the land and lot holders in the new country, have no criterion by which to determine prices, for neither are content with competence; both want to be *rich*, and that very soon. No sound public and private economy is possible, because industry, skill, trade, manners, customs, and frugalities cannot find their



duly measured relations. How could such a society arrive at that normal social condition, in which the means of satisfying the reasonable wants of a population are increasing faster than the number of its inhabitants? Its labor supply being from without itself, it was all the time under temptation to over-consumption and to uneconomic households. Crisis follows crisis; for there are facilities to grow rich, but no anchors for acquired competency; simply because there was no economy wrought out by experience, no self-correction of diseases, and no regular and measurable social movements in anything.

We may be told, that if this be true, it were best to prohibit immigration, just as the slave trade was inhibited. We answer, that such a course is unnecessary in reference to immigration, because it may be cured without harsh means. Europe is solving, under the guidance of social and political scientists, the social evils of which large emigration was and is the indicator; and if America will only do her part, and remove the temptations to large immigration by reforming our spendthrift habits, and the extra motives for removals from Europe to America will all disappear. The true relation of American to European society will exist, when the old prejudice that took "stranger" to be synonymous with enemy shall be extinct, and when we shall be equally free from the other extreme, that looks to immigration as the main source of American wealth. The aim must be to attain *here* that conduct as to procreation, that production of means to live, and that gathering of capital, that will keep the elements of social well-being (food, raiment, and house-room) in a steady even advance of an increasing population. When the United States attain that status, there will be no room for the uneconomic or lower grades of immigrants; but nevertheless plenty of opportunities for the thrifty, skilful, and higher order of settlers. There may be fewer, but there will be better immigrants, and they will readily fall in with the permanently resident population, that will meet them on equal conditions. There will still be some, that will leave the old settlements and their higher social order and economy; but they will be the restless spirits, whom no society can hold. They are but the extremes of another class, who, consulting only their comfort and ease, stay where they are for their own good more than that of the community at large. They seem to be conscious that they are unfit to live in any other society. Give to the first, freedom to go, to the other, freedom to stay; and their respective movements may be used as meters for ascertaining how far the body-politic is self-conservative or disintegrative. The world seems to need both: the one to keep society from

stagnation, the other to give it stability. We want neither the social conditions that must fear immigration, nor those in which extraordinary means must be used to keep folks from emigrating.

America must not recede, but advance on this subject. Its society must not be so constituted, that only one kind of people can live in it; on the contrary, its socialities should be such, that every well-behaved individual, whence-ever he may come, can live in them; but also its people so educated, that they can live almost everywhere. The great hotels, the universal homes of travellers, are finger-boards in this direction. Clothing is also rapidly becoming international. Those who nurse their clannishness, often from purely imaginary superiorities, are becoming more and more unfit to live anywhere. And all those old stupidities, that can, without being laughed at, be expressed only in special corners of the earth, are all doomed to die out, and in their place will be "established rules of conduct, which the good and wise of every land call right." Mankind are more than ever learning of each other, and this increased knowledge increases human comfort. The mutual reception of laws and institutions of nation from nation, often far distant from each other, has become a no longer interruptable, steady course. So also is there a uniformity of jurisprudence, of cosmic and religious knowledge growing up, that is far preferable to the old endless diversities and false local idealities. The privilege of being a sovereign *oddity* is being valued less and less; while the attribute of being, in the great family of nations, the one that has learned most and best from other nations, is the standard of a nation's greatness. Instead of immigration in one direction and it to America, there will then be the free interchange of individuals in all directions.

This course of affairs is not entirely modern, it is only a revival (in a more extended manner) of ancient civilizatory processes. Rome must have been early a beehive of many peoples, for it had a *quæstor peregrinus*, a judge who had in cases, where strangers were parties on one or both sides, to decide, by taking into consideration, beside the Roman, also the respective foreign law. This office necessitated in Rome *comparative jurisprudence*, and it became the fountain, from which flowed that master jurisprudence—the civil law. Europe received afterwards its new birth through the Arabian-learned schools in Spain, because they added to jurisprudence a mass of Asiatic religions, and revived some half-forgotten Grecian political science. Russia secured to herself great improvements in legal knowledge by the liberality of her wiser rulers towards

foreigners, of which the most significant instances were the treaties made with the Hanseatic cities, which allowed commercial settlements in Novgorod and elsewhere, in which Hanseatic law was recognized as authority, in deciding cases. *Pepin* had revived among the Franks an inquiry into the law of sojourning strangers with a view to do them full justice. England had conceded to Cologne the right of establishing in the city of London a commercial house or "Court," with special privileges and exemptions (William the Conqueror, 1066-87, and Henry II., 1154). The Italians allowed similar establishments, and do now enjoy similar rights in Turkey. The general principle of all of them is not to treat the sojourning and trading foreigner as a lawless subject, or as a being that has no rights, except those arbitrarily and temporarily yielded to him. He was to have the benefit of his home laws.

America has done much towards this in modern times, by saying to mankind: Here is a land, where no man need be a foreigner, where, indeed, foreigners are countrymen. Come all! You, who wish to be emancipated from your narrowness! Find your relations in these ever-new social conditions! Enjoy the liberty to help yourself, and let your eagerness to do so create wealth for others! Here is a country in which the pursuit of happiness is the free-est, and where there is neither religious, nor social, nor political tyranny!

This generous invitation to free individual immigration has been abused by the importation of criminals; an act of turpitude to America, and perfidy to honest immigrants. The right to send convicted outlaws to any country, ever so sparsely populated, is in itself a questionable procedure; but to impose them on a people, a part of which are countrymen, is mischievous in the highest degree. Felons are foreigners in their own land, and no country can safely naturalize them. They cast a doubt on the character of a whole people. Every country can receive folks that leave home in search of commonwealths, where industry, trade, and mechanic skill are more in demand than in their native land. Such immigration existed in the best days of Rome, from Pannonia, Germany, Gallia, and Spain. It exists now in England, from continental Europe. It has lately been wrongfully interrupted in France, from Germany. It prevails now between Canada and the United States, and it ought to be allowed full flow everywhere. And if, as is usually the case, it is accompanied by an emigration of the superior talents and energies to the countries that are inferior in their development, as a sort of counter-current, as is now the case to Eastern Europe by Western European and American

engineers, skilled workmen, and highly educated agriculturists, often too by capitalists; then that populatory movement is also a healthy one.

But while we gladly commend the general spirit of the policy of the United States in reference to immigration, we cannot pass unnoticed the illiberality, often meanness, that has been and is still afloat among many individuals of the body of the people. Were these prejudices left unexplained, it would cast a deep shadow on American society, in the eyes of future historians. So, to be fair, it must be stated, that the greater, if not *all* the antipathies against foreigners are *European* in their origin. We have here, for instance, the continuance of the old mutual Anglo-Hibernian hatreds, that originated in political and religious subjections by England; so have we still lingering among us the old aversions of the British against France and Germany, because they were enemies in battlefields, and had differences in language, in manners, religion, and laws. All these are to-day fully as strong in Great Britain as in the United States. Beside these, we have still alive among us the after-effects of the original object of British settlements in North America, that of making them intensely English, or anti-Spanish and anti-French. The conflicts between the French and English colonies in 1754-60, as well as the importation of Hessians as soldiers in the revolutionary struggle, have also left bitter memories. This explains, why the Scotch-English are accepted as being a sort of three-fourth American, while the Irish Catholics are regarded as hardly one-fourth, and the French and German are conceded to be one-half American. Political and religious disputes bring these gradations of aversions most markedly to the surface. In know-nothing times, there was a tacit exception from the anti-foreigner abjurations in favor of the Scotch and English Protestants. And Germans were (if not Catholics) allowed to come under this protectory wing. The foreign-born Presbyterians were, in fact, a sort of backstair members of the know-nothing lodges.

In view of the religious freedom, which is held forth to the world at large by the United States, all distinctions against immigrants, on account of their belonging to any or no church, would be entirely inexcusable, if it were not for the fact, that they are European in origin and character. There are very few original American religious organizations; what churches and creeds there are, exist here only as continuances of European organizations, or as exiled European establishments. And whatever illiberality Americans exhibit has its cause in their being members of such rival denominations.



There have been, are, and will be attempts made to erect Protestantism into specific American religionism, as against Catholics and all Free-thinkers; but they have been and will be failures. Indeed, we may say, that as long as the American mind is wasting its theological acumen in disputes between Christian sects and their hair-split dogmas, so long will there be no attempt at a national religion. That will come eventually, when science shall have undermined all Christian supernaturalism, and after several efforts to get up Christian eclecticism shall have failed. In the meantime it is well to understand, that religious prejudices are, in America, but intensifications of Europeanisms; and that they are *so* intensified, because churches and their ministers have to keep up excitements, in order to get the support necessary for the maintenance of themselves, their families, and their church establishments. The immigrant, who understands religious freedom to mean, turning out churches into a free field for a free fight, should not complain, if he finds so many Americans stripped for it. Those of us, who understand, by religious liberty, something entirely different, may complain.

America should never have been asked to give guarantees of permanency to any religious belief, which immigrants may bring with them; for it is not like Turkey, where law and religion are identical. There is, therefore, no need of any further promises than those contained in our constitutions, which mean, in brief:—that whatever creed the immigrant has on his arrival, he may seek to propagate as best he may; and that public authority will neither help nor thwart him in his movements; provided he does not infringe on the same right in others. That this sort of freedom has led and will lead to struggles for supremacy, first socially, then politically, and last for political legalization, should not surprise anybody; for history shows this to be the ultimate of all such public indifference. It was such in the Roman Empire.

The European emigrant has his choice, in America, between the Canadian Dominion, Mexico, several West India Islands, and the whole of South America. Why have the large majority preferred the United States? It must be, because there, in consequence of the manifoldness and multiplicity of creeds and churches, no guarantee of religious freedom is necessary. Nobody fears, that one or the other of them will prove master of the situation, and then ride rough-shod over the rest. No power on earth, nor all of them combined, and if it were written in a thousand constitutions, can give men, who emigrate to the United States, any other guarantee! They

ought to ask for no other, and if they should ask, it should not be granted. A time will come, when even the one he has will be dispensed with; and it will, we predict, be done with the free consent of the immigrants. Mankind always gets tired at last of the freedom to fight and quarrel.

The latest phase of immigration, that of the Chinese, raises anew every issue presented by the subject. Being a semi-importation and colonization, it raises these questions in an acuter form. The Californians object to these Asiatics, because, they say, they are of a different race, religion, language, and social habits, and therefore unfit to be Americans. The Chinese reply: "We do not want to be Americans; we can and do learn English so far as we need it in business pursuits. As to your religions, morals, and laws, we submit to them, if, in spite of our efforts to the contrary, we come in contact with them. We do not ask for the elective franchise. We see it does you no good; we think, therefore, that it would not benefit us. We are not afraid of you, though you are the more numerous! Why are you afraid of us?"

We have carefully read all that has been published in reply to this, and can find no response, that does not, in effect, amount to a square backout from every position hitherto assumed by America on the subject of immigration. The objection of race cannot be sincerely raised by folks, who vote to make negroes their equals. All that remains, therefore, are the unreasonable ill-wills, engendered by the fact, that the Chinese work better and cheaper than any of the persons with whom they have to compete. It is a new form of the old prejudice, that was invoked by nativism a generation ago, against industrious Germans, under the hue and cry against "the pauper labor of Europe."

We need not say, that in our opinion, it will do no harm to recede from all the ground hitherto assumed on this subject, and to reconsider it anew in all its bearings; for it will clear the popular mind of many self-admirations, as well as of many misunderstandings. The time seems to have come anyway, when every part of American society needs re-examination and re-adjustment; and immigration is but one of them. It will be found that, with proper social conditions, America needs very little immigration; but that, with our present ways of living, no amount or kind of immigration can keep up our scale of expenditure (public and private). A population, whose self-production is less than its outlays, and which therefore imports or admits foreign labor, has no stable foundations to its social life, because it has no measurement for its economy. All its calculations for the future are hazardous, and fatalism takes the

reins. The cure lies in augmenting the inducements to permanent settlement, and in diminishing the temptations to immigration. The more this is done, the better will be the condition of American society and of its public authorities; for it causes private economy, and *it* again leads to public economy and reform. The immigration that comes unprompted and untempted, and of its own accord, into such an economic society, stands upon a very different footing than encouraged and fostered immigration; for its benefits are large, its evils insignificant.

That the Chinese race is as good as any on earth, thirty centuries of historic civilization attest. They have not found the equilibrium between population and means of subsistence, but they have come nearer to it than any other people. From their midst has arisen the wisest man the earth has produced—Confucius. And his family has now lived an honorable and honored existence there for twenty-five centuries. What other society has done the same thing? Where else are the superior men of the country equally respected? What land has a family life, that is an equally secure anchor for society? Whose laws have stood the test of time for an equal length? What country evolves a more enlightened public will? Where is success in life least an accident, and most the result of personal merit? Yea, we must, even at the risk of offending, ask the question: Is it their inferiority or their superiority, that causes the opposition to them? Their leaving their native land may raise a presumption against them personally, and it may be true, that the desire to be rich is the sole motive of their coming. If so, who, in California, is to throw the first stone? So it may be said: The country they came from cannot be a well-governed land, or else they would have remained there. Well, does such a remark lay in the mouth of a people, that has not produced a state, a county, a township, a city, or a village, but what is emigrated from, and in which almost every piece of property is held for sale!

We are so very strenuous to have this question of immigration thoroughly sifted and understood, because we know, that American society, as it ought to be, cannot set in as long as it has so many states and municipalities, that are largely emigrated from. We must turn upon ourselves the accusations, which we make against European, Chinese, and African governments, and ask ourselves, why *we* have so little settled society? For only he, who realizes to himself what has to be done to form states with ethics and moralities, laws and economics, that prevent large emigrations, can be a fair judge in this matter.

It is true that, strictly speaking, there is no expatriation in the

migrations *within* the United States; but that is only true, because patriation has a much more indefinite meaning in America than elsewhere. The Irishman who emigrates to this country expatriates himself no more than the American, who goes from the Atlantic slope to the Mississippi valley, or the Ohioan, who goes to California and Oregon. In all these cases, the state emigrated from loses individuals, that are a part of the total elements, whose action, interaction, and reaction produce its ethics, morals, laws, and economics; and the states immigrated into gain individuals, that have to find their relation to a society, that is forming itself into a state and government, which it cannot do fully, until it is settled. The effect of both gain and loss is the continuance of a low order of social and political development. The old state has a concrete question less to solve, the new state one more; one is disintegrated, the other confused.

*All* the persons, in a state, constitute its total personality—(the state), and through this entirety the individuals composing it attain an individual personality of a much higher order than would be possible to them by their own single efforts at self-enhancement. This is done by the harmonization of the interests, and by combining forces for those great public purposes, which single persons cannot accomplish. Free emigration and immigration complicates these social processes; it unsettles the laws of settlement; it changes all questions as to the maintenance of the poor; affects the relations of the sexes, procreation and their education and training; and modifies the legal conceptions as to inheritance, indeed all economic relations. And it explains, if we take history with us as a light in our inquiries, why the best jurists adopted so reluctantly the principle of free migration. Their studies rested on the great duty of the wisdom, virtue, and intelligence of a given society, to form itself into a coherent, harmonious, and effective public authority, while free migrations appeared to be the negation of these endeavors. Was it not patent to every eye, that each emigrant, when he abrogates his citizenship, with all its rights and duties, severs relations of the tenderest nature at home, to country, parents, sisters and brothers, and that it involves also the rupture of political ties? How could the jurists, the political scientists, the nurses of the stable elements of society, take kindly and readily to the proposition, that persons were free to go and come at pleasure, and that neither the parent society nor the new home had ought to say on the subject?

They could not fail to be aware, that an emigrant cast a reflection on his native land, its society and government; because



his going indicated deep social antagonisms. The presumption was justified, that he was either not educated properly or being well trained, was otherwise wrongfully treated, or else he would have stayed. When, therefore, emigration to the United States kept continually increasing in this century, and rose within the last ten years to 300,000, and over, a year, it engaged the attention of every intelligent mind in Europe to ascertain its causes and to find a remedy.

It was palpably a very different thing from all former populary movements, for, though as massive as any, it was purely individual. True, colonization is also an emigration; but not a total rupture, for the colonist remains still a part of the general strength of his nation. It was, if the simile be allowable, a lending of population and wealth to other countries on increase. But modern emigration meant no return of men and wealth, except through chance stragglers and a few inheritances. How different is this, from the "migration of nations," those movable feudatory states, that crushed an ancient civilization and wasted themselves! Modern emigration has no leaders (dukes); it has emigrant agents, hotel-keepers, sea captains, and emigrant bureaus; they move for no subjugations, all they aim at is to go from lower to higher grades of social life; they want political rights as luggage on the road to liberty. But all this is only semi-conscious action. To most observers in the old homes, the movements looked causeless and aimless; and for some time they did not know whether to weep or to rejoice over the massive departures.

The world citizenship; the international commerce; the cosmopolitan inter-education and social perfection; the world-wide comity, reason, and justice; and the development of a total organic human society, which we now have in the mutuality of post-office arrangements, and are going to have in money and other things: those things were then but ideas, and abstruse at that.

Nor were the emigrants, though they called themselves pioneers, conscious that they were the forerunners of a larger, wider, and better social life. Their idea was and is, that liberty, naked liberty, was to be their great aim. Liberty to move without tickets of leave, without passports, and without the preconditional consent from anybody. Liberty to commence and to quit any business they pleased; and particularly, liberty to vote and to hold office, without any previous training or other prescribed general or special qualification. Liberty to pursue happiness without any limit, except that produced by the competition of others as free as themselves. All that government

should do in the premises was to keep the peace, particularly its own; and that, only in flagrant cases, and when the danger was imminent, it should interfere. These were, briefly expressed, the prevalent views.

Having come from governments, that were in fact in the hands of the possessory classes, and having left under a sense of the injustice, both socially and politically, which this state of things carried with it, they were perhaps unaware, that from among these classes, especially from these highly educated men called bureaucrats, and the literary and other professions, had come their own awakening to a sense of something being wrong. So they carried to America resentments, that blinded them to the real nature of government, and especially to the governments of their native land. They did not know, that through social and political scientists, reforms were then and are now in progress in social and political economy, that alleviated the burthens and were gradually curing the evils that had driven them forth. They had no conception, that society itself, if left politically imperfect, as is the case in America, is but the hearth of numberless efforts to gain possessions, so as to enjoy the social power they give and to have an advantage in all business transactions. They seemed never to understand, that their native land is *socially* unwell, though its *political* administrations are good, whilst America is *socially* well, though its *political* administrations are bad.

Ravished by the hopes of an indefinite liberty in America, they overlooked the embryo freedom that was coming in Europe. And charmed by the practical unrestrainedness of American social life, they never apprehended seriously any unfreedom from a seemingly so free social development. But it came and is coming nevertheless, because government in America is party rule, and therefore a discordant and not a harmonizing authority. The United States have for that reason been, from the first till now, nothing but a social battlefield, on which various interests are struggling for mastership. These contests were mistaken for free institutions, and, because the evils produced by them seemed but temporary, in consequence of constant extraneous additions to populations and unceasing territorial extensions, it was presumed, that no permanent diseases were being engendered. All public questions, such as banks, railroads, the public lands, tariffs, taxation, police, the public service, the collection of debts, public credit, immigration itself, were at one time taken up frantically, at another dilatorily, but at no time sincerely nor objectively. In the meantime special interests—corporations and offices, spoil-hunting, and other

instances—have secured strong positions, from which it will be difficult to dislodge them. We have again and again scanned the horizon to see, from what quarter and by what force America can extricate herself from these oppressions, but as yet we see no social or political force that has either the power or the will to understand the situation, to frame a remedy, and to enforce it.

We know nothing authentic, how the first immigration struck the aborigines of America. Their first thought seems to have been a vague apprehension of evil, which was followed by a mixture of confidence and mistrust, and it ended in a permanent feeling of hostility. It is always so between parties that should be true, but play false, to each other. The proper course, that of mutually absorbing each other and establishing governments suitable to this purpose, was taken in a few instances, and for mutual benefit; but it was never tried upon well-digested plans, and the effect upon the Indian from immigration was, that he became a stranger and an enemy in his own land, and the white man his cruel and perfidious persecutor.

The Indian relations and slavery prove, how imperfect the ideas of liberty were among the immigrants. Even their best minds, such as Penn, failed to find the best relations between the Indians and the Whites. The Moravians came nearest. Nor did the home governments ever rise to the sad reality of the situation. The highest point reached in discussing the question was the issue, whether lands should be purchased from the Indians, or whether they should be taken without compensation. The Ordinance of 1787 shows, that the honester side prevailed on this and only this point, as a permanent policy. What the *Toltecs*, the *Aztecs*, and the *Inkas* did for Central and South American Indians, was, excepting the few instances of Herrnhuters, never done, nor even attempted in North America. To this day a mingling of Whites with Indians is unpopular, and believed to be impossible.

The question of immigration, discussed in this chapter, refers specially to the migration in the after revolutionary period; and the line of distinction, to be drawn between it and that preceding it, is the then effected total extinction of the colonial policy, and the prevalence of personal motives in the present immigration. There are, indeed, still intermingled, with it, religious considerations, but they are growing less and less distinct. The fact, that the United States are everywhere presenting a more or less compact society, upon whose social, political, and religious institutions it is difficult to operate, makes all attempted changes by improvisations from without, almost

impossible. The Mormons are the latest improvisation of that kind, but even they could not prevent the intermingling of the "Gentiles," as they call them; and America, though irritated, has not trampled the thing out, because it feels certain of its decay and death. Immigrations, such as the Herrnhuters to Bethlehem in Pennsylvania, the Rappites to New Harmony, the Owenites to the Wabash, the Lutherans to Georgia, the Dunkers and Menonites to Pennsylvania, will be, both from the spirit of the age, and the growth of America and its people, more and more unlikely to be undertaken.

The Catholic Church is the only one that maintains an intimate connection with European *powers*; and it does it for the reason, that it depends on immigration for its main support. It derives some strength from the comparative superior character of its educational establishments, especially for young ladies; but even this will disappear, as soon as American colleges and seminaries get emancipated from puritanic sectarianism. Protestant parents, who now send their daughters to Catholic schools simply to keep them from pietistic silliness, will cease to do so, as soon as good general higher educationary establishments exist. They send their children now, at great expense, to Stuttgart, Dresden, and other German schools, for that reason. All immigrations, under the guidance and direction of the Catholic Church, are investments "*a fond perdue*;" they cannot escape being absorbed by American society. The day of influencing our population from abroad and moulding it here into a specialty, is long gone by. The Quakers, whose ingrained republicanism made them *the special religious society*, most possible to have a long future, is now suffering because it is an oddity. How then can a Church like the Catholic, with its clergy appointed abroad, and directed from Rome, keep up against an Americanism that has ever carried the country with it, when it acted in a liberal spirit?

Mankind is rapidly tending to the only correct mode of migration, that of free individualism. It is every year less and less likely to be a massive movement of populations. All governments and all human society is improving, and very soon there will be fewer and fewer of those gradations and subjections in any society, that impel those, who are lowest placed, to leave a country where there are such discriminations. The nearer all nations come to about the same general economic conditions, the less cause is there for multitudinous emigration or immigration. The total life of the human gender is towards unity, uniformity, and equation; and this tendency exercises a moral pressure on all nations to conform to the teachings of



social science, and political and administrative perfection. The late agreements, as to postal internationality, show, that even the most inveterate national prejudice vanishes under this pressure. Mail arrangements are always the advance guards in general intercourse, and the example set by them is sure to be followed in other branches. International migration, based on reciprocal rights and duties, is certain to be one of these, and when it is, then all migration is but an exchange of human capacities, and a lever to equalize social conditions everywhere.

This general process towards a *world citizenship* has been in operation ever since the discovery of America! Frontier after frontier, that formerly interrupted the free movements of populations, has fallen. Germany then had three hundred such special bodies-politic, Italy some two hundred, and similar barriers existed in every nation in Europe. They continued more or less all through the eighteenth century; and we are indebted to the Napoleonic wars, whatever injury they did otherwise, to the general breaking-up of them and for greater freedom of movement within nationalities. The application of steam to water and land transportation acted next as a solvent, and now the telegraph crosses oceans and rivers as well as frontiers, and gives spontaneity to all human intercourse. It has produced an interdependence of nations on each other, in the production and distribution of wealth, that makes us all mutually interested in each other's welfare. And all nations have become conscious of the mutuality of interests, and instead of desiring each other's ruin (the old folly), we wish each other prosperity. Under such circumstances it is impossible that states should prohibit the coming or going of individuals, who migrate for the purpose of finding a higher usefulness in some other country.

Free migration is therefore the negation of the old colonial as well as of the older subjugating policy. Nations can leave to each other the more independence and sovereignty, the higher they develop their internal affairs; and the best guarantee to this effect is free migration, because a bad government and an uneconomic people will then have daily warnings, before its eyes, against its evil course. There need be no fears of the proportion of the floating population being too large for a stable society. There was such a danger at first, while there was great inequality in the social and political conditions among nations; it was a temporary dislocation of the lower population. But as this inequality was equated and definite information of the labor-markets became easily accessible, the outflowing of popu-

lation was stopped, and men found more and more, that they had better assume; that *cæteris paribus*, they are almost sure to be best fitted for usefulness and for earning a livelihood in the localities where they have lived for some time and are acquainted with persons and things. Moreover, they learned, that at such places they could live cheaper and better than elsewhere; that, therefore, motives of interest coincided with patriotic impulses, and that the motives for settled life, are both the truest as well as most potent.

It cannot be, that while all rejoice at the opportunities of free populatory movings, which science, higher mechanics, and capital tender to mankind, that at the same time there can be, in the same heads and hearts, a desire to erect barriers to a free interchange of labor, skill, and talent among nations. Steam and telegraph have bridged over rivers and oceans, and railroads, canals, and other artificial highways have made frontiers disappear, and forced even the most reluctant nations to yield more freedom to trade. Why should man, for whose benefit all these creations of genius are made, be alone hemmed in? Nature has still enough of obstacles to an entirely free intercourse. There are still differences of climate and race that are insuperable. They have sometimes been set aside by force, as in the slave trade; but with normal conditions, those that exist will rectify themselves, and the wrong will not be repeated. Had America never imported or received an immigrant, that did not come of his own accord, and for *purely economic* reasons, and how superior would our society be compared with what it is now! With how much greater hope we would look into the future. How much more of the best Americanism we would have!

## CHAPTER XV.

*PAPER MONEY IN AMERICA.*

"The effect of money upon human conduct being similar to omnipotence over the Universe, the desire to possess it, must necessarily degenerate into a wild passion, unless restrained by ethics."—*Goethe*.

IN sitting down to write this chapter, we must first of all confess, that we do it under manifold contradictory feelings. We have before us the notes of the historic data—taken with the view to an understanding of the *facts* bearing on this subject, and they present such an unbroken series of false, we might well say: wicked—public actions, that they create in us a pre-judgment, that makes us look upon all paper money, that has been, is, or may be issued in America, as the intensification of national, municipal, and corporation dishonesty. But we have beside us also, the latest, and as we think best, enunciations of the socio-political scientists of our age, and they force us to review our opinions, and to reflect again on paper money *per se*, and then we see, that, amidst all the wrong-doings, there was a seeking after a paper currency, which modern progress justifies. That idea lies in the following from *L. von Stein's* latest work:—

"There can be, according to all the laws of human development, no doubt, that there will be a time, when metallic money will disappear and mankind will possess only paper money."

This makes us juster to Hamilton's operations in the United States, as well as to their last imitations in Chases' Greenbacks and National Banks. And we perceive, that neither the opponents of all paper money, nor the over-zealous friends of it, pursued fully right; nor totally erroneous courses, because the first were too tenacious of old tenets, and the second too inconsiderate in adopting new opinions.

The very subject of money is full of paradoxes, and we have to be very careful, if we wish to avoid equivocal expressions. Its rightful use is full of benefits to mankind; but the love

of it, for itself, is a wild passion that always ends in the million fever. The wisest and best society is compatible with large supplies of it; and no less is it true that populations, that have very little of it, are destitute of the higher pecuniary processes in their business relations. The knight-errandry, in the pursuit of riches, is just as much, but no more to be condemned, than the asceticisms, that see virtue only in the absence of money. And so are, in the United States, those no better public guides, who can find in our Constitution no warrant at all for the issue of "bills of credit" by federal authority, than those, who claim that the power is there absolutely without limit. The truth is, that modern society has pecuniary wants, which old ways cannot satisfy, and for which new means have to be provided. To look for these, however, under our constitutions, in *one* of our governments only, is as preposterous, as the assumption, that the necessary powers are not somewhere. The framers of our fundamental laws did not and could not, in the very nature of things, foresee all future exigencies, but they could and did provide public authorities, who, if they properly co-operated, might secure the best measures by the most proper respective public administrations and law-making bodies. Mere jurists or sticklers for positive law could not see this; but it must be plain to all who, beside legal lore, have knowledge of political economy.

The Crown of England and its ministers never did their duty to the colonies on the subject of money. England has, indeed, never been extremely jealous of its royalties, when, not to claim them, made their colonists reckless in their political economies, and therefore more profitable to home traffic. The love of money was, for this reason, never discouraged in America, but permitted to run into its own extravagances through the unrestrained use of paper money, and all kinds of abuses as to domestic or foreign coin. The adoption of the American dollar from superior Spanish mintages, and placing it upon the *decimal* system of subdivisions as well as multiples, was therefore, on the part of America, an emergence from British negligence; and so must we look upon most, if not all, the creations of paper money. Had England been, all it should have been, to its colonies and, instead of confusion in money, America would early have had pecuniary order.

Massachusetts issued "bills of credit" as legal tenders in 1690 already; the prohibitory clause in the United States Constitution, Art. I., sect. 10, clause 1, derived its verbiage from *that* first issue of paper money in America. *John Law* was, about that time, busy with the finances of Scotland, and pro-



posed to the British ministers a paper-money scheme. His operations in France followed in 1716. The Bank of Holland, founded in 1609, was well known to, and admired by the Pilgrim Fathers. The Bank of England was chartered in 1694, upon plans drafted by *William Paterson*, a countryman and acquaintance of *Law*, and the next year followed the Bank of Scotland. All these schemes rested on the mixture of public, with private credit and capital. The "improvement" (?) of Massachusetts consisted in issuing bills of credit without capital. And the example was catching; and fifty years afterwards every colony had, in one form or another, its paper "surrogate" for money. The world was everywhere awakening from its metallic-money stupor, as well as its aversion to a free use of credit, and relaxing its restraints on commerce. The legal profession, the Church, the politicians, the merchants, the scientists, indeed all men, were learning of each other; and this brought not only new economics, but also new laws and ethics. America, considering its social enticements and free pursuit of happiness, with its small capital in moneyed means, did no worse, than Europe did. It rode its hobbies only with slacker reins.

No amount of losses could daunt the frenzy for "bills of credit" in these early times. In 1705 it took eleven paper pounds to purchase one gold pound sterling. In 1748 England relieved Massachusetts from downright repudiation, by paying it about a million of dollars in gold, and this led to a partial redemption. The payment was for the military expedition against the French Canadian fortress—Louisburg. The obvious lesson of this episode, in colonial history, was not taken to heart by the people; it was: that there are but three ways out of an economic marasmus, caused by a paper money, that has sunk in value, because not based on a specie standard and constant redeemability, to wit: first, as then, an inflow of standard money from the outside; second, partial or total repudiation; and third, the strong arm of a genius like Napoleon, who breaks or bends what will not follow. Communities cannot, of themselves, lift themselves up from a paper-money fall, no more than men can lift themselves up by their own wrist-bands.

The emission of ill-provided, and therefore sure to be a depreciating paper money, during the revolution (1775-83), was rightly considered, not a new makeshift, but an old practice under a new name. It was called "continental money," partly because that was then an undisgraced appellation, but also from an inner intuition, that American money needed to be relieved of local narrowness. And the halo of continentality or, as we would (standing upon similar popular instincts) style

it: "nationalization," was thrown around the new paper money. It ended, in spite of its broad name, in being repudiated; and popular wit coined out of its ruins the phrase: "It is not worth a continental d——." Mr. Franklin used them for a wiser purpose; he spoke of it in his celebrated letter against the redemption of this paper money as "wild taxation." He argued, that the depreciation was a sort of socially, self-collected tax levy, whose distribution was, among such a people as ours, more likely to be just, than the usual systems of taxation. And he held, that to raise the bills to par would be like paying back an already distributed burthen, to unknown contributors, and that those who held the bills then, were certainly not the actual sufferers, for their par value or only to a trifling degree. They were not entitled to full payment. He was certainly right!

Franklin's objections to the raising of an utterly depreciated currency to specie par rests upon the same conceptions of right and wrong, as the actions of Solon and Nehemiah did, in their ancient settlements between debtors and creditors. Solon's *Seisachthia* took place 594 B.C.; Nehemiah's order to the rich to abate half and more of their claims occurred 404 B.C. They were wise acts, that set equity and social reason above strict nominal justice. Franklin had even a stronger repugnance, than these sages, to all creations of social inequalities by act of government. He had a semi-conscious conviction, that American liberty rested largely on the general quality of possessions, which was then the social condition; and he apprehended, that whenever there would be contrasts between rich and poor, or possessors of wealth and non-possessors, an easily concentrated privileged money-power would have an immense advantage. He wanted to avoid all such conflicts. Transferring 200 millions (the nominal amount of the continental money) from the many to the few, which would have been the effect of a redemption at par, looked to him, like the creation of a moneyed aristocracy. That amount was then a larger sum than 2000 millions are now. The sinking of paper money from par value to nothing, provided it was gradual, he looked upon, as a burthen distributed by a social process, in which, he thought, Americans were sharp enough to escape too severe an individual loss in one lump. We admit the cleverness of such reasoning, and deem it far preferable to the extravagant tenets, as to the sanctity of public credit, which men promulgate who make the creditors' nominal interests the basis of their conceptions. Least entitled to call hard names, such as "repudiators," are always those, who cause the evils, from which repudiation springs. Insolvent and bankrupt laws are, like repudiation, but cures of diseases, that

originate in business dissipations, which a foul abuse of public and private credit encourages.

The utter repudiation of the continental money was followed in 1787 by the surrender of the power to make paper money a legal tender on the part of the states. It was a disgraced power, and while the memory thereof lasted, it had no friends. We have already spoken of the defective mode and manner as well as verbiage, by which the states are now dispossessed thereof; it left far too many open questions.

Some contended, that the framers of these provisions were exclusively hard-money men, and that they meant to forbid for ever the issue of paper money. To this it was replied: Who can believe the Fathers to have been so silly as to want to debar their country for ever from using superior monetary tools? Others have insisted, that the constitutional convention intended to clothe the general government with power to demonetize metallic money, and to create at will, national paper money. To this the answer has been, that such assertions turn the framers into government absolutists, and that this is irreconcilable with their general conduct, and specially also with other provisions of the Constitution, as for instance: that private property shall not be taken for public use without just compensation. We certainly agree to this idea; for an irredeemable currency, forced into circulation by legal tender acts, would certainly contravene this clause; since under and by such a money-power, the federal government could confiscate all property. But to this view it is objected, that the last-named clause is one of the amendments—the fifth—and that it does not therefore explain the animus of the Constitution itself.

Perhaps we shall reach the truer conclusions, if we drop the idea, that the fathers were superhuman and that their action must be accepted and construed like divine revelation. They were, like all legislators, under iron necessities, which act upon men, like natural laws. One of these was, to provide for a *national* standard of value; in other words, to secure to America, what it never had, standard money. This they did by giving Congress power “to coin money.” But they went further and gave it the power “to regulate the value thereof *and of foreign coins.*” By the last clause they found their way back to international money, which is a most important point.

As to paper money they held definite opinions only so far as the prohibition of the old abuses by the states went, and that certainly branded “forced loans” as an immoral act. To hold that the United States can pass a legal tender act, for its own bills of credit, amounts to the declaration, that a thing pro-

hibited as wrong in the Constitution may be made rightful by act of Congress. We can believe no such absurdity.

There is, however, in the Constitution itself a clause that cuts off all such construction. It is in Art. I., sect. 8, clause 2, in these words: "Congress shall have power to borrow money on the credit of the United States." Under that power Congress can certainly issue any "bills of credit;" for they are but one form of borrowing money. And by their use, it can anticipate revenues, circulate the paper evidences thereof, as currency, make them receivable for public dues, and carry any amount of floating or bonded debt; provided they are not forced loans. Indeed, right here we would ask: What else is a bill of credit, issued in anticipation of revenues, than a floating debt? And what harm—in principle—is there against anticipating revenues for a year or two, if it is done with the consent of him, who lends the money or the means it represents? Or is it an objection to such bills, that they facilitate the transaction of public and private business? We think, therefore, that the framers of our government did not preclude the issue of bills of credit—their word for paper money;—but that they prohibited forced loans. The reader must judge for himself, whether we are right?

After the Constitution was made and adopted, and Washington's Cabinet was organized, it became Hamilton's duty to organize the finances and fiscal organs of the new Government. He was not an admirer of the Constitution, though he supported its adoption. He was therefore not likely to study it, as his *rude mecum*. On the contrary, he disliked all, who raised constitutional questions; and he would have mistrusted his own good hard sense, if he had caught it wool-gathering on such points. He was therefore very unlikely to hold a patient inquiry, what, or what not, he could do within the Constitution, but very likely to adopt promptly and to push strongly that which he understood as proper methods for conducting the finances and fiscalities of a government. And these methods were almost certain to be formed after British models; for he loved British politics.

Their way was then to have a bank, based partly on cash capital and partly on a funded debt; and this bank to be the medium, through its issues, for carrying whatever unavoidable floating debt there might be. The cash capital he expected to draw chiefly from abroad, and the funded debt he created by funding the interest-bearing certificates issued towards the close of the revolutionary war. They circulated as a much-depreciated money, and funding them at par, raised the most



determined opposition from Jefferson. Washington was first also in doubt on nearly all points, but fell in with Hamilton's plans, because neither Jefferson nor Madison suggested any others. The most serious embarrassment to Washington's approval was the creation of a corporation. How glad he would have been, if somebody had proposed a regular governmental establishment, that would have answered the purpose and not been a corporation.

It was a queer state of things! What the best financial scientists of the time pointed out as right, was held impossible under our institutions; and what our politicians started in one way or another, was condemned by scientists; and thus we have been going on and missing the ultimate truth, that was, if not intended, at least within the purview of the Constitution of 1787. We missed it for the same reason, for which the traveller in the "Arabian Nights" failed to reach the end of his journey, viz: that he never got started. We have, instead of solving the question early, promptly, and decisively, handed it over to our partisans to quarrel over and to muddy it; and when the great exigencies of 1862 arose, the people folded their arms and allowed *all* the financial errors to be committed at once, and called them "*inevitable*." What should have been squarely done, was to call the financiers and the constitutional jurists together, to ask them to prepare the correct measures, and then to ask of the states and their people any additional authority, that may have been found to be necessary. Political bunglers have in lieu thereof had charge of the subject, and we have again and again presented the spectacle of "a land from which financial science seemed banished." And thus it has come, that powers have on the one side been usurped, that were never granted, and on the other, powers never denied—indeed, undeniable—have never been exercised. We have had the worst currency, when we should have had the best; and the most enthralled credit, when it should have been free-est.

Hamilton's Bank of the United States was hardly in operation before some of the old colonial and state banks recommenced their old business. Other new banks were chartered, until the number of them amounted to ninety, and their capital to forty millions. They were hardly adequate to the wants of trade, and therefore often strained their credit, and not always legitimately. When the war of 1812 came, the charter of Hamilton's bank had, in spite of the warnings of *Gallatin*, been allowed to expire (1809), and the country lost the improvements which the shrewd Swiss financier had suggested. The United States had therefore, for the war of 1812, no resource except taxes, foreign

loans, or the notes of state banks. *Taxes* were again, as often before, inadequately levied, because public opinion dared not to be trusted for a full levy. And foreign loans were, from the same reason, not reliable, as Europeans hesitated to lend money to a government afraid to tax. The banks tendered the Government their notes, and they were largely used. The banks liked the business, made large dividends, and more banks, more currency, became the rage. In 1814, however, all the banks, except those of New England, who had not lent much to the Government, suspended specie payments. The discount on paper for specie reached twenty per cent., and shin plasters under a dollar, were issued. The country was almost back again to the pecuniary agony that followed the revolution. A noted Ohio banker once said to the writer, when reminded of this episode in banking: "It was bad, but not so bad as the utter sinking of the continental money." We asked him, what he meant by his remark, and he answered: "To prove that bank-notes are better, than Government paper money." We denied his logic, reminded him of Franklin's idea, that sunk paper-money issues were but a distributory process of public outlays, and told him besides, that the worst wrong of one system did not make the wrongs of the other system right. He did not argue further.

The necessity to have some central control over the paper currency of the country, now became obvious to Madison and other states-rights men; but again there was no objective scientific inquiry into the best possible measure. A national bank was again hit upon, as if no other way existed, and Mr. Dallas, the then Secretary of the Treasury, introduced a bill for such an institution in 1814, but the charter was not passed until 1816, and then in an inadequate form. Why men like Jefferson, Madison, Monroe, Gallatin, Dallas, Clinton, Gerry, Webster, Clay, and Calhoun, all of whom could then have been brought into consultation, failed to unite in preparing a bill, that would have combined scientific knowledge with American experience? is an inquiry, that must rise to the reader's mind as it did to our own. The reasons are manifold, but we can give only the more prominent.

The principal one was, that the public men of the United States, brilliant as their faculties were, as partisan politicians, could not, for that reason (at least did not), call in either each other nor others as experts on special points. They were confined to consultations within party lines. Being partisans themselves debarred them from objective reasoning; or else it might have happened, that they had to find some party shibboleth

to be an error; or, just as likely, that something, which their party denounced as wrong, would have to be advocated as right. They were actually afraid of logical reasoning, and called those, who practised it, "impracticables" or "theorists." And from that day to this it amounts to exclusion, from public life, for a man to get the reputation of having philosophic inclinations.

Another impediment kept them from seeking the true solution; that pointed out by Lessing as to the meagreness of French tragedies. He said: "They have not improved on Corneille and Racine, because they believed, that they had the best possible in these men's works. They modelled after them as standards, and never advanced. In America we are partisans and fall continually into adorations of certain men and their measures. We presume them to be perfection for a while, until time cures us of our idolatry." Thus Hamilton, Dallas, Biddle, and Chase, now Sherman, have long warped popular judgment and kept us from the true search for the right.

Another hindrance to a successful administration of the finances and to consultations with men, that had technical experience and accomplishments, was the strong tendency to intrust public positions to the hands of men who were mere lawyers. Professor Roscher holds, that "in every financial department there should be a technically educated merchant," or "at least one who is a practical political economist." He points out, that jurists are bound by the law, that they follow it, even if they disapprove it, and construe it from the standpoint of legal principles. A political economist thinks besides of the wants of business intercourse, and he questions whether the law accords therewith. Not one of the great men named, except Gallatin, had any commercial experience, and but two of them were familiar with political economy. Clinton, who had a genius for social science, showed in his programmes for public improvement, that he lacked close calculations and sound political reasoning, and could not, from that cause, frame good financial plans. Gallatin had, both as an engineer and afterwards as a banker, kept up his early business education. His experience as Secretary of the Treasury had added to his qualifications; but he was not a congenial character to American politicians, or rather they were uncongenial to him, and his suggestions were never treated as they deserved. From these causes it came, that there was never, in the bank projects, the mercantile proficiency, which we find in the national institutions of England, France, Germany, and Italy. And kindred reasons prevented the origination of a public establishment, that would aid in the fiscal relations of the Govern-

ment, by the issue of bills of credit, and rest on public and private deposits. The common remark would be made: "We cannot officer such establishments under our mode of appointments."

The radical defect of Mr. Dallas's bank project, in 1814, was the proposed use of state debts as a basis for the capital of the new bank; it was piling credit on credit (Pelion on Ossa), and in effect would have been an indirect revival of the issue of bills of credit by the states. No bank is safe, that does not rest *a priori* on specie funds actually paid in in cash, and always kept in cash to a safe amount, and in fair proportions to the amount of risk the public has to run in doing business with it. The management must be in the interest of those, that have the risk, by furnishing the means. The government must stand towards it as a legislator, not as a co-owner, nor as an exclusive director. Its assets and credit must be as sacred to it as private property is in the best of states.

In the debates on Mr. Dallas's bill, and afterwards on the bank charter that passed, it is clearly discernible, how the minds of members were then still filled with the fundamental errors of legal tender acts; to wit: the surreptitious taking of private property, and the misuse of private credit for public purposes. Officering the bank with partisan politicians was not regarded as a financial sin. It brought the bank afterwards into its first difficulties. The capital stock was thirty-five millions, of which the United States furnished one-fifth, and private stock-holders four-fifths; the same proportion as in Hamilton's first bank.

Leaving the question of the constitutionality of a bank: as a corporation, in abeyance, we believe the true way would have been to have had none but private stock-holders, or rather depositors, at first, with a mixed control in the directory; and with a provision, that all profits divided above five per cent. should be a *pro tanto* repayment of the stock. The repaid stock to be transferred to the government, which would thus eventually become the owner. Instead of the bank eating up trade and the public treasuries, we should have had a reversed process.

The charter of 1816 contained some well-meant restrictions; but they were without the economic and financial forecast, which was to have been expected from public men, who legislated forty years after Adam Smith had published his "Wealth of Nations," and after Bentham, Ricardo, Tooke, Turgot, Necker, Sartorius, and Buesch had written and published their works



and defended the absolute necessity to have freedom for credit. We will instance a few of these crude restrictions in the bank charter of 1816: No bill of exchange could be drawn for more than \$5000; the bank could loan the federal government not over \$500,000, and the respective states only \$50,000 each; it could not charge over six per cent. interest; the deposits must not exceed the nominal capital. Some members proposed amendments, that showed a still more childish spirit, but they were, we are glad to note it, rejected. But so were also a few proposals to induce Congress to secure real unity into the system, and not to shrink from granting full liberty to such an institution. One member (Hopkinson), looking beyond the horizon of the time, predicted that "a time would come when the nation would help itself." None rose to the full height of Jackson's assertion in his Bank Veto, July 1832: "That banking, like farming, manufacturing, or any other occupation or profession, is a business, the right to follow which is not originally derived from the laws." The same doctrine has lately been announced by the Scotch banks in their report to Parliament, and it is this perception, that will yet lead us out of all the false regulations, that still encumber the subject.

It should, however, be coupled with the correlative proposition, that issuing a currency for a community is neither *per se*, nor by usage, nor by correct political reasoning, a necessary part of banking business. The circulation of bills of credit, that pass from hand to hand, and which are to serve as means of payment, in the daily and hourly business transactions, must be regulated by enactments and carried out by public establishments, in charge of public officers, both because safety requires it, as well as, because their amount must not be subject to the arbitrary will and use of persons or corporations for profit.

One episode in the Jackson-Van Buren administration may well find a brief space here; that of the "pet-bank system," being so called, by its opponents, as a nickname for the system of deposits in banks favored by the administration. It interests us only as another stray instance of the use of state institutions for federal fiscal operations. How small a change in organization would have sufficed to have had the true plan! As it was, the pet banks fell into their inherent motivities, to wit: they increased their circulation with a view to profit, and Jackson no sooner saw this, than he sought to cure it by issuing the "Specie Circular." The cure was too heroic. It brought to his successor the suspension of specie payments in 1837 and defeat in 1840.

The proclivity of American public men to put hypothetical

questions and to magnify them, crops out largely in the letter of Jackson (who had this fault least), September 1833:—

“To give the President the control over the currency and the power over individuals, now possessed by the Bank of the United States, even with the material difference, that he is responsible to the people, would be as objectionable and as dangerous as to leave it as it is.”

The object of the letter was, to assure the public, that the administration was not grasping for undue power in the then contemplated removal of the deposits from Biddle's Bank. Jackson was talking to a befogged public mind; but did he remove the fog? Was he not himself in the indefinite?

The point really at issue was: whether some mode could be found for the emission, by government, of a circulating medium that would not involve too great a stretch of power on the part of the President as well as Congress? Now it is proper, to bring to mind, in this connection, the fact, that the United States mint was then issuing certificates payable in coin for the precious metals brought there for mintage. What possible objection could there be to a sub-treasury or an exchequer that would issue to any citizen demanding it, bills of credit or treasury notes, in lieu of any other money due him at the treasury? The daily average of payments from the treasury was then about \$200,000 a day, or \$5,000,000 a month, so that in a very few months, the free adoption of treasury certificates by the people as currency, would have supplied the country with a good and safe circulating medium without the addition of a scintilla of power to either the President or Congress. The duty to maintain constant redeemability would have been an additional burthen on our federal government; but it was one that only fancy-fears can inflate into any real trouble.

The main point, however, is: that under such an issue of treasury bills the suspension of specie payments in 1837 would not have occurred; for very soon their receipt and disbursement for public dues would have made them the currency of the country. Bank-notes would have passed out of existence without a ripple on society. Soon the treasury could have bought up parts of its bonded debt and saved interest; retaining, of course, enough specie to maintain specie payments.

In May 1837, all the banks in the United States, with but five exceptions, suspended specie payments. And so the question was back again to where it was in 1816. The sub-treasury, a defective exchequer system, but one susceptible of improvement, was now adopted, while the states passed bank charters. Every species of banking and bank-paper was tried

experimentally, but none was ever fully and logically sustained. Every scheme was a half-way measure, and only half-way carried out. Confusion prevailed in the popular, as well as the more educated public mind, and so the country was ready for the orgies of the Harrison campaign of 1840. With Mr. Van Buren's defeat: "standen," to use a German phrase, "die Ochsen wieder am Berge." The new President, *Harrison*, died within a month of his inauguration, and the new Vice-President, Tyler, took the chair. He was a man of the old Virginia school of politics, while the majority in both branches of Congress were Federalists under the name Whigs. Between them the old saying was realized, viz: The one holds fast, the other won't let go. And once more the states had to come in and force a return to an actual specie basis; by passing resumption acts between 1841 and 1845. Congress could not pass its bank bills over the veto of the acting President; but they could pass a bankrupt law, that was in effect a sponge on most of the outstanding debts due from one citizen to another.

The Mexican war, 1845-47, forced the administration to use treasury notes; but it was done so hesitatingly, that they acted on the popular mind like a yawn does in company; that is to say: the treasury notes met with as universal a sluggish reception as their issue was sluggish. The government and the banks yawned at each other; neither used the other's notes. The people revived in their conduct the ancient story of Balaam's ass between two walls. The Democratic party with its sub-treasury was on one side, the Whigs with their bank-projects on the other, and the people were denied the use of convenient forms of public credit. Why so able a secretary of the treasury as Robert Walker, failed to suggest good measures, remains unexplained to this day.

There was always a squint in the public eye, as to the profits made by banks, on the privilege to issue notes. The interest to be saved by the government by the emission of treasury notes also obscured the much more important point, viz: how to have the cheap use of a paper-circulating medium? It never received full consideration. The bank of 1816 had paid one million for its twenty-year charter. Jackson said in 1829-30 that the sum should have been seven millions, and he added: "Every monopoly and all exclusive privileges are granted at the expense of the public, which ought to receive a fair equivalent." Equivalent! Can money compensate for a monopoly or a privilege? Jackson claimed: that "the subscription to the stock should be open to competitive bids, the premium to go into the treasury." And rather than let the bank or banks

make money on the public deposits, it was after 1837 locked up in the sub-treasury, as if nobody knew that every dollar so locked up, was depriving the people of so much fructification of their means.

The United States Government has since gone to the other extreme and sucked private credit almost dry by its excessive use of greenbacks and bank-notes. The immense losses caused by a fluctuating—legal tender—currency were kept concealed behind a fictitious par, and the real cost of an ill-regulated paper money, amounting to thousands of millions, was never known; indeed, it was, for a while, treason to speak of it. The people were patted on their backs and told of the “inexhaustible resources of the country,” and the taxes paid by the banks as well as the interest saved by the greenbacks. As if the taxes paid by the banks were not a plus taken from the customers of the banks, and the interest made by Government, a minus of the people’s profits. Had we had a bank regulation on a floating scale, that would have charged the banks the less taxes, the lower the interest which was charged by them, and the benefits of a paper currency would have gone, where they ought to have gone. Institutions and their managers ought to have a constant inducement to serve the public cheaply, so as to counteract the temptation, they are ever in, to inflate their circulation with the view to large dividends.

But we must return once more to an earlier period. The United States Bank (from 1816–36) fell, as we have stated, soon after it was chartered into the hands of officers, who lacked technical capacity for their positions. They sent, with the view to a resumption of specie payments, agents to Europe to procure seven millions of gold, at an expense of over half a million of dollars. Their next aim was to raise the premium on the stock of the bank, and they inflated it to 156½ in one year after its establishment; but soon their incompetency became apparent, and a little over a year afterwards the stock fell to 110. Unable to govern their bank, they could still less govern the local banks; and all the abuses, which it was to remedy, were therefore continued. Had the state banks been forced to reduce their irredeemable circulation and the United States had supplied the vacuum with treasury notes, receivable for all public dues, backed by good systems of revenue and financial operations such as were open to the United States Government; and, instead of worrying through six long years, the whole object, that of a currency on the specie standard, would have been reached in one. Of course a law should also have been passed, determining honestly the existing relations of debtor and creditor.



Their standard of a good circulating medium was to bring all bank-notes on a par *with each other*, while it should have been to bring them on a par with a correct specie standard. It was the same slack-rope performance, as that of Chase, 1863-66, who bragged of the uniform *par* of national bank-notes with green-backs, when both were, as compared to gold, down to forty cents on the dollar.

And right here we will, we hope, be pardoned for the remark, that all the modern paper-currency failures, from John Law to Chases' national banks, have arisen out of one identical mistake, here noticed, to wit: their irredeemability in a medium, that pays all debts and buys all goods without the force of an enactment. The inter-redeemability of one form of credit for another form, cannot make either, or all, the proper circulating medium for a nation, because neither of them has stable value or definite prize. Such issues are both vicious credit as well as bad money. What would we think of a penitentiary, in which the standard of good character were the qualities of the biggest rogue in it?

When the managers of the bank began to see, by 1818-19, the perilous consequences of their blundering, they violently reversed their course. They contracted their circulation between 1816 and 1819 about seven millions out of eleven, and the local banks theirs, nearly three and a half millions out of five millions, a total reduction of ten millions out of sixteen. That the country could stand this sort of bank-doctoring shows the robustness of its general health, and it gives us an idea, what a blessing a well-administered public establishment would have been.

The recuperative energies of the communities now came to the rescue of the country. The state of Pennsylvania, under the lead of Gallatin, reformed its banks, and other states followed suit.

Now it is very important, that we should fasten our minds well on this reversal of the fundamental idea of nationalization. Because the national public will, that should, were things normal, have been the better one, failed to comprehend and to perform its full duty, as to money and pecuniary facilities; therefore the states had to resume their original and inalienable duty; to come to the aid of their society in these matters. They could not do it as perfect as the general government could have done, but they deserve credit for what they did. It proves that American society has residuary recuperative resources which can save it in emergencies.

*Nicolas Biddle* was now (1820) made President of the bank.

He was a Pennsylvanian, for to that state the Union was then in the habit of looking for financial talents. Morris, Franklin, Gallatin, Dallas, and Rush had done so well in the fiscal affairs intrusted to them, that it was natural to look to that state, whenever any great monetary adjustment was needed. Nic Biddle was equal, to the others named in adroitness, but he lacked their integrity, solidity, and far-sightedness. He imparted to the bank superior business tact and effectiveness; and when the country recovered by its own natural vigor, he received the credit for it; and swelled at once into a great reputation, which he was not slow to use. And thus it came, that when Jackson, in 1829, expressed doubts not only of the constitutionality of the bank, but also its utility, he was met by a general guffaw by all those people, whom suddenly acquired great reputations overwhelm; and they went on shouting hosannas to the bank-hero of the period. The bank reports showed *eighty* millions of assets against thirty-seven millions of liabilities; and the public asked: "What does Jackson know about banking?" Not much! but considerably more, than most of those who kept asking this question. He had Van Buren, Benton, Woodbury, Cambreling, Richard Rush, Louis McLane, Duane, and several able New York bankers as his advisers, and co-operated with a strong and wise commercial current, that had arisen in consequence of New York having become the commercial emporium of America.

The loss of commercial preponderance reacted, of course, on Philadelphia, in many ways. The most noteworthy, for us, is the lessening of the influence which that city exercised on the formation of the public will in America. The removal of the seat of government (1796) to Washington had taken away from its press and literary men many opportunities for sharpening the political insight, which had been so largely developed in Franklin. But when it also lost the commercial supremacy, it lost the correction, as to politico-economic questions, which only international trade can give. Compare Franklin with Carey on the latter point, or Richard Rush with Reed, and the thing is easily seen.

Nic Biddle's course also exemplifies it. His sharp credit-operations could not avert the impending comparative decline; and his corrupt loans, to members of Congress and politicians, could not save his bank from popular antagonism. After Jackson's veto of the re-charter of the bank and the removal of the deposits, he improvised panics and became their self-victim. At last he had to retreat into a state charter, and thus he reversed the position of Pennsylvania. Under Gallatin it corrected

federal rule, now it sought to vitiate it. The Specie Circular and the sub-treasury counteracted all his plans, and New York's advance to the head of cities was confirmed, and New-Yorkers gave thenceforth tone to American politics.

The bank failed in March 1841; it had sunk thirty millions in eight years. Biddle himself now played the anchoret, and declared: "The union of bank and political powers is an incestuous connection, beneficial to neither party and injurious to both." The grapes were hanging too high for the fox! Had he suggested, what none knew better than he, that America needed, as to banking and the issue of bills of credit, something like what goes by the phrase, "Division of labor," and he would have been a public benefactor. We need (1) banks that organize credit for permanent investments; then (2) those that organize credit for facilitating payments and exchanges; and last, a public organism for issuing a national currency. All three should be free of, yet co-operative with each other. Banks must not be able to get money on any other conditions than private bankers or citizens from the mint; nor currency at their own will and for their special profit.

Other state legislatures—this time prominently Massachusetts, because there commercial wisdom and integrity was most required and most developed—now took up the subject, forsaken as it was by the very federal authorities, that should have solved it; and they labored between 1842 and 1862 promiscuously; committing many follies, especially in the teeming west, but never losing sight entirely of the great social and political want of America—good paper money. They were fulfilling Hopkinson's prophecy in 1816, viz: "trying to help themselves." The absence of correct national legislation and administration aggravated their task; but still the Suffolk bank system, the Louisiana bank laws, the self-protective measures of the better New York banks and bankers, and the business integrity of many mercantile firms, which grew in the midst of the weeds planted by scamps, were forming nuclei, that would eventually have rectified American banking. The main impediment herein were a species of men, such as American public conditions were breeding, to wit: a sort of gentlemen, who mingled bad politics with thin religion, and both with slippery banking. They were the shuttlecocks that flew to and fro among the public treasuries and moneyed corporations. They verified the old adage: "Eagles gather around carrion." The same tribe of bipeds afterwards infested our railroads, and there played king storks. Things looked often, as if America would be submerged by their bad conduct.

Think of it, if this language is deemed too harsh, that America was, after the failure of the Ohio Life Insurance and Trust Company and the bursting of the several free bank and wild-cat systems, emerging from banking anarchy into some order, and what is more, into superior knowledge and the higher virtue, which Goethe points out as the ultimate regulator and preventer of the love of money turning into a raging passion, when the war of 1861 broke out, and Chase became Secretary of the Treasury. He was the worst possible man for the crisis. His ignorance of social and political science, and of money matters, coupled with a desire to be President, made him have an open ear for men, who could talk glibly on such questions, and were full of plans, to do things wrong under plausible reasoning. Instead of using his opportunity for gathering together the *good* banks, which he found ready to his hands, he played the buck in their gardening and strangled them, after they had helped him. He forced them into a suspension of specie payments, and then revived the good, bad and indifferent banks through his national banking system. It was a conglomerate of false government and bad banking, based on greenbacks and bonds. Fanny Wright's description of modern funding systems applied: "They deal in millions and are not worth a groat." Once more commercial integrity and mercantile worth had to form a socio-political partnership with brazen partisan impudence; and the leading positions, as well as the master-keys, were in the hands of jobbers and stock-gamblers. At one time there were thirteen different forms of United States paper, and a half a dozen rates of interests, and evidently the men at the helm were perplexed in the midst of the chaos they had created.

The very state banks, that lent Chase fifty millions of gold in 1861 and took for them depreciated United States bonds, he discarded, through his issue of "demand notes," unsupported as they were by a well-matured system of revenue, and therefore without any visible provision for their regular and constant redemption. Suspension of specie payments were thus sure to ensue. Chase, like all sinners in American politics, was anxious to preserve his reputation as a man of principle, and he went into his inundations of the country with bad paper money, with professions of being still a hard-money man on his lips. When, finally, he could not maintain that character, he took the other extreme, and talked of having demonetized the precious metals. Echoes of wild halloos for the new era of greenbacks came back to Washington, from paper-money schemers of all kinds, from every portion of the Union. The sorriest sight presented the



better bankers. They were hitched to this modern car of Juggernaut; for they had to go along, although they knew, that things were all wrong.

February 1862 the law for issuing 150 millions of paper money passed, and rectitude had to yield to frailty. Old colonial financial infirmities were revived in all their grotesqueness; but their livery was *national*. Thus the true nationalization of Washington, Jay, Hamilton, Madison, and Franklin in 1787, as well as that of Jackson, Van Buren, Wright, and Benton in 1832-46, was lost again in the false nationalization of 1862. Dishonesty held its jubilee at the Capitol, because the good Fathers had not done their work as closely, as they should have done to shut out the wicked children.

Bad as Chase's *monetary* measures were, they were accompanied by even worse *fiscal* procedures. His whisky, tobacco, and other taxes were all mere means for enriching speculators. Being prospective in their effects, they were used in the interval to distil and purchase ahead, and they, and not the treasury, reaped the proceeds. More greenbacks had therefore to be issued, and they finally reached 400 millions in quantity, and sunk to 40 cents on the dollar in value. The Government imagined itself into a pecuniary omnipotence, all the wealth in the land was put into a state of solution, and every one spoke of "inexhaustible resources." And so there were in the Pickwickian sense. Such eating, drinking, clothing, and frolicking was never seen on earth before. But right beside it were the horrors of war and the miseries of a government, that was in the hands of sharpers. The amount of spoliation, that was inflicted on the productive and thrifty portion of society, will never be known; it must have been equal to full half of all the wealth in the country. It was often a marvel to us, and is to-day, how any private wealth, that looked only to its own industry, skill, and frugality, could live through this profligacy. Classic intelligence, virtue, and wisdom enlightens us, however. It taught, long ago! that there is a reaction of vice upon itself. It was illustrated in antiquity by the myth of Moloch eating up the children, which superstition furnished to his shrine. Ours we need not describe.

Chase's national banking system is but one more imperfection in a series of imperfect institutions. It adds to the cost of money, when it should diminish it. It increases the amount of money in circulation and at interest, when it should reduce it. It swells bank profits when they should be contracted. It is, for these reasons, calculated only for low pecuniary conditions, that is to say, such as are without the right standard of value,

and therefore without any tests of strength and conduct. Where every one is debased it is as easy to be *primus* as *postremus inter pares*. The banks were started in a tide of irredeemable money, and they floated on with it; ever reinforced by government. They stand to-day only because the public treasure buoys them up. They fell like a card-house in one heap, when Cook's failure tested their capacities, for the first time, and that very slightly. It requires but a very small breath of untoward wind, to throw them again beam-ends. The present Secretary of the Treasury—Sherman himself—their advocate—said of them, December 12, 1879:—

“The banks cannot alone do it (keep up the requisite reserve in specie); for when such a reserve, as is necessary, is scattered over the whole country among two thousand banks, it would be attacked in detail, and the failure of a few banks would impair confidence in and destroy the whole system.”

The entire fabric lacks unity of organization and administration. It is a constant temptation to slippery finance and to money fallacies.

This banking system has been amended again and again, if it be amending, when questionable changes were made at the beck of a confused public will. It is now unlimited as to the number, locality, and extent of nominal capital, as well as amount of circulation. The good banks are getting every day more bad brethren, and the power of the bad over the good is every hour increasing. The eastern banks, especially those at the centres of trade, whose notes would be the best and safest, because ever subject to redemption under the operations of the laws of trade, have the least circulation; those at remote locations and scattered over an immense area, and therefore inaccessible and not subject to any normal drafts on them for redemption, have the most circulation. And all (greenbacks, treasury certificates, bank-notes, deposits, public and private) hang on the standing in the stock market of United States bonds, chiefly four per cents. There are indeed also about two hundred and twenty-five millions of specie in the treasury, but as this money is to hold up seven hundred millions of paper currency, and near a like amount of four per cent. bonds, it is easily seen how precarious the whole thing is. Remember also, that there is no unit of account and value; that greenbacks, silver and gold, are still, one and all, legal tender; and that nobody knows which the United States treasury, the banks or debtors at large may choose, in an emergency, to deal out. All have, if not specie reserves, reserved *options*, with which to fight creditors, if it does not suit to pay them in gold.

Reflect besides, that the party in power has but one motive, to wit: to retain its hold; and that it cannot do this unless it keeps the ship of state, crowded with sails, before the popular winds; and it becomes plain, that we cannot have the corrections which science and ethics prescribe, because they are unpopular. We are therefore always likely to have measures, which science and ethics forbid, though they are popular. No wonder, then, that the public mind is puzzled, and that men should spring up all over the land suggesting more puzzles to a distracted people.

We cannot present all these puzzles, and select therefore the one, which is the condensation of the whole batch; viz: Britton A. Hill's "Absolute Money" scheme. He boldly advocates the abolition of all specie money, even the specie standard. He claims, that public and private business shall be conducted on the principle of forced loans, that is: money kept current by the force of legal tender acts. He does not recoil a moment from a circulation of 2150 millions of paper money. Had not France 9000 millions of assignats? He argues that his paper money would—

1. Unite the people of the United States by ties stronger than any now existing.

2. It would abolish financial and monetary centralization.

3. It would free us from dependence on foreign nations.

4. It would extinguish our public debt.

5. It would relieve us of taxation and give us free trade.

6. It would furnish a uniform and elastic legal-tender money.

7. It would lower interest and give us plenty of money.

8. It would abolish specie money.

The only trouble with this array of assertions is, that the Government of the United States is not omnipotence. It can make its money worth less than gold or silver or merchandize, and it can demoralize its people; so can it fan the passion for money; but it cannot prescribe ethics, nor create *words*, nor change the world's opinion, nor scientific axioms.

Mr. Hill must excuse us, but his arguments against a specie standard of value remind us of the Irishman who said: "it was a great mistake to let the sun shine in daytime, when it was entirely unnecessary." His error was, that he took the daylight that existed, and was the result of sunshine, as the product of some quality of the earth. Mr. Hill's misconception is similar. He thinks, that the conditions which prevail, with a paper money that rests on a specie standard, would exist also with his "absolute money." But the truth is, that as there would be no daylight at any time, if the sun did not shine, so would there be no good paper money, if there were no stable standard

of value. The development of which Loring von Stein speaks in the quotation in the beginning of this chapter would never take place; and there would be no future for Hill's absolute money.

Mr. Hill would, however, also find, that after he has made his money a legal tender, that he has to go one step further, and make it the warrant for expropriating all possessions in every man's hands. The clauses in our Constitution, forbidding seizures of property, except for *public* uses, would have to be repealed and clauses substituted, that would arm every man with authority to take any property he wanted on tendering "absolute money." We presume, this power would have to be given direct without the intervention of a jury to find the value. Or? what a nation of jurymen we would be! It would be a *bellum omnium contra omnes*—plus a jury.

All that is proper in money we should not have, and all that is improper about it we would have. And all on the pretence, that the government is the absolute owner of all the wealth in the country, and that there are no ethics to be observed in its disposition. The world would answer, as it did Chase's bravadoes, by premiums on gold, and depressing the absolute money. There could be no credit, for there could be no "credo." America would then be the illustration of *Almendingen's* conception, "that there may be a legal status in full bloom, and a complete fulfilment of all state objects, if all the citizens were devils as well as the heads of the state were devils, provided there was only social and political order." In such a state, it would be a hardship to live, for all, that are not devils. Angels and gods would certainly be out of place there. Deviltry would enforce its absolute order, and the atheist's paradise would exist.

We need not argue about the "inexportable money" of Mr. Carey of Philadelphia, nor the "interchangeable money" of Mr. Cary of Cincinnati, for what we have said of Mr. Hill's "absolute money" applies to them, so far as they lack the ethical principle, without which "the love of money degenerates into a raging passion." We regard all such schemes as children of a frame of mind, that always ensues, when ambitious men like Chase upheave the social and political anchors and leave the moorings, in which society was at least safe, even if it was not as well supplied with money as it should have been.

*Von Holst*, the latest writer on American politics, says well: "The quickest horse on the road to despotism is a principle ridden without bridle." St. Simon said almost a century previous: "Americans are still children in politics." Put the two



together and review what has been said in this chapter, and it will, we think, appear: that America has ridden principles like children, and has advanced very far in despotism. Let us see, whether we cannot put bridles on all the several principles involved.

First principle: The United States need for themselves and their society, besides their metallic money, a supplemental paper medium based on the specie standard.

Second principle: The paper medium must be issued by the authority and under the control of the federal government.

Third principle: It must be uniform and identical in value in every part of the Union.

Fourth principle: The amount issued must be in accordance with, and adequate to, the wants of society as well as its governments.

Fifth: There must be public establishments for the deposit of public and private surplus moneys, and they may and should be used to equalize payments and exchanges in different parts of the United States.

First bridle: No corporations chartered either by Congress or the state legislatures, nor any individuals, must have the issuing of the national medium at their pleasure.

Second bridle: The United States must not issue the national medium arbitrarily as forced loans, but upon the demand of trade and on uniform and identical conditions for all, and they obligatory on the Government and its offices.

Third bridle: The profits made on the paper issued must go to those, who fulfil the conditions on which it is issued.

Fourth bridle: The establishments erected for this purpose shall be under the co-operative management of federal, state, municipal, and individual supervision. Congress to pass the necessary laws, the Executive to issue the instructions and regulations, and the said managing direction to administer them.

And now the reader can easily find the right, but also the wrong in Hamilton's Bank 1792, in Dallas's Bank 1816, in the pet-bank system 1834-37, in the sub-treasury 1837-60; in all the bank-note issues for the last century, in Chase's greenback, in the national banking system 1863-80, and last not least, in Sherman's ground and lofty tumblings as to resumption and refunding.

And when the right and wrong in these things is found, it will be at once perceived, that none of the existing institutions, be it the sub-treasury or the banks or the mint, will answer the chief object in view; but that each of these should be remitted

to their strictly appropriate inherent functions. The mint to coinage, the sub-treasury to the comptrolling of accounts, and the banks to dealings in money accrued to them by their own capital and credit or by their depositors. That done, and while it is being done, erect the public co-operative establishments already suggested, and confine these as near as possible to their sphere as to issues of a national paper medium, which includes of course the facilitating of payments and exchanges upon the money-order idea all over the land, and also to foreign countries.

In conclusion, let us say, that we flatter ourselves to have suggested nothing, that is not strictly within the powers of the Constitution, and sustained by the most advanced thinkers of our age, on the subject of paper money. We submit it confidently to the reader's criticism.

## CHAPTER XVI.

## FEDERAL TAXATION.

“With all governments, to do evil is easy, but to effect beneficial change, difficult.”—*Grote*.

As we enter upon the subject of this chapter, two episodes in our life present themselves to our mind, which we allow ourselves to mention. The first was the statement of our teacher in geography in 1828: that the United States had the best systems of taxation; the second was the remark of a professor in Strasburg in 1873, whose lectures on taxation we were attending: that America ever had, and had then, the worst systems of taxation. The former remark was one of our chief inducements to emigrate to this country; the latter was our principal incentive to study the subject anew, preparatory to our work; and a forty years' experience in America enables us to understand, that the instructor of our youth had taken low taxes and simple methods of collection for his criterion, whilst the professor who taught us in old age judged by the standard of politico-economic science. The paradox was solved by applying to America the above quotation from Grote: for then we comprehended, that the United States started with some well-set phrases on the subject, and enjoyed for a long time fortuitous social and political conditions, and with them the luxury of opposing even light taxation. It presented, in justification of its heedless course, the usual *ad captandum* sophistries. Thus the country drifted into evil taxation imperceptibly, and when the dire exigencies of the war 1861-65 came, it had neither empirical nor scientific guides for its action, and plunged into the most massive tax wrongs, which the world had ever seen, and it is now so extremely difficult to effect a correct beneficial change.

It may, under these circumstances, be well to bring to our minds a few historic data as to the development of ideas on taxation, which those, who had to decide this matter, underwent before and since this Union was established.

England had taxes that were never enacted by parliament;

they existed by common law, or feudal or royal prerogative; or by conditions precedent *to* and running *with* feoffments; and most of them were renditions in kind or service or money, by immemorial usage. These taxes sufficed for a long while for the maintenance of government, but eventually more revenue had to be found and more taxes had to be levied. These the Norman kings (Plantagenets) attempted to impose by royal prerogative; but the Estates of the realm interfered and exacted the promise from John Lackland, that they should be levied only by the consent of parliaments in which these Estates were represented. The masses of the people were represented in parliament only indirectly through the Estates, but they were indirectly secured by the provision in Magna Charta, that whatever rights the nobles and clergy asked for themselves should inure also to those that were enfeoffed under them. The correlation of taxation and representation stood accordingly, in the mind of the revolutionary fathers, as memories of a distinct representation, as bodies-politic (states-colonies) in a parliament with sufficient political power to prevent being taxed by mere numerical majorities. We see, how and why this idea became, in the Constitution of 1787, the leading reason in the provisions for federal taxation, the enumerated and delegated powers, and the restrictions on their exercise.

The first cause of a modification of the tax views of the Fathers was a contemporary change in British politics. The middle classes of England became dissatisfied with their *indirect* representation in parliament. Bentham, Lord Shelburne, Pitt, and others had advocated a redistribution of political power, so as to protect the body of society against arbitrary power generally, but especially against it as to taxation in which the Estates of the realm had only a remote and indirect interest, and did not protect society generally. Custom duties, excises, licenses, *per capita* taxes, &c., belonged to this class. The framers of our Constitution shared this desire for general direct representation, and the negation of taxation it involved, and inserted it in the Constitution. There being, however, no Estates of the realm in America, and wealth being generally equal, the conception, that there might be a time, when there would be numerous voters, who had a direct and tangible interest in voting taxes on their fellow-citizens, was too remote, to enter their minds. They were too full of this idea to give to the body of society, that was in danger of being taxed, without being represented, as a distinct political power or like defensive weapons, to anticipate, that these very weapons would in time be used as offensive means,



and for arbitrary distributions of wealth. We shall see, that in pursuance of this state of their minds, they were not careful and definite enough in their tax clauses.

Let us trace now in general outline the history of federal taxation in America, and mark particularly, how it came to be intermixed with general ideas of taxation, especially those of modern politico-economic schools. Then we shall perceive, that the American Union has been embroiled in difficulties by the cause pointed out by *Puffendorf*, to wit: that the "civilian" and the "federal statesman" were often, indeed ever, united in the same persons, and that they failed to keep distinctly apart the two ranges of thought and action, which governed in each relation respectively (the civil and federal law). This began with the first steps towards an American Union.

Franklin's plan of 1754 proposed as revenue for the new Government, "an impost on all distilled spirits, they being in general use in all the colonies; a duty on imported liquors; license charges for concession to keep taverns, and excises on luxuries, tea and such articles;" and he argued for them: "that contributions thus exacted would be taken in due proportion to the then prevailing equal wealth of each single colony; that they would rise with their prosperity, and that disputes about unequal taxation would thus be avoided." He proposed further, that "the taxes should be collected in each colony, but paid over into the general treasury, to be expended on the order of the general President in accordance with the appropriation and laws passed by the general council." We have here the old British idea in a new American form; it says, expressed in words: We, the colonies, agree to create a federal government, and we grant it the following enumerated taxing powers, provided we collect them, and we promise to pay them over, but only our representatives can expend them. We are the Estates of this new realm, and in it there shall be no tax levied or collected, except by our consent.

England's conduct towards her colonies in America was, as to taxation, at first generous; it was satisfied with such incidental benefits as might flow from the growth of their commerce. It wanted them to enjoy all the good ideas of British government without any of its evils; they desired even to protect them against illegal and unfair taxation by the colonial legislatures, and required therefore the assent of parliament to such laws; just as the United States do as to the legislatures in their territories. The English knew, that the most obnoxious being to an Anglo-Saxon or Celt was a tax-gatherer, an exciseman, or a police officer. None such, at least none in foreign livery,

were to appear in America. So America started free from all taxes not voted by their own legislatures, except such as might exist in a price to be paid for land. Neither the New England charters, nor the proprietary grants in New Jersey, Pennsylvania, Maryland, &c., nor the royal establishments in Virginia, North and South Carolina, &c., had any reserves of tax authority for England; the new populations were to initiate their own tax laws.

And looking at this, they might well ask: Was not an inveterate aversion to taxes a good anchor for liberty? Can there be any better basis for representation, than men elected by township meetings composed of tax-haters? And are we not safe as long as the representatives of these meetings can alone levy taxes? That is the fundamental idea of self-government in America. De Tocqueville says so, and he is quasi-right. It meant: no taxation unless granted in town meeting. It worked first-rate, until inequality of possessions led to social conditions, in which there were voters who paid no taxes but yet had a visible interest in high public expenditures.

To us, who now stand in the presence of the most gigantic social spoliation by taxation ever known, it must be of great interest to trace still further back the beginnings of developments since had, both as to our federal as well as municipal governments, so that we may see, how and why the same America, that freed itself from British unjust taxation, has finally fallen a victim to the inter-social spoliation, that controls its governments. We may say now, that the root of the evil was a misunderstanding as to the correlation of taxation and representation.

When, in 1643, the Colonies of New England formed their Union, the tax clauses and the quota of soldiers formed the delicate point of their deliberations. It was agreed that troops and expenses should be apportioned according to the number of all male inhabitants between sixteen and sixty years of age; but that each colony should raise its quota according to its own laws. Connecticut threw the apple of discord into this Union by levying duties on goods going to Massachusetts on Connecticut river. Massachusetts retaliated by levying imposts on goods imported and exported through the port of Boston. The historian of Massachusetts—Hutchison—says of these acts: "In all times and countries, bodies-politic have done things of which the individual citizen would have been ashamed." The clauses in the Constitution of 1787 against such mutual oppressions had their origin in the experiences of the colonies of New England 1643–83. When in 1686 James II. took away the charters of New England and found a tool in Edmund

Andros, this New England Union was dissolved and many beginnings of good federal laws were lost.

It must, however, now be stated, that the first proposition for a combined colonial taxation in North America came from a British statesman—Earl Stair—in 1723, who suggested the levying of a general import duty by the united act of the colonial legislatures; and he even conceded, that such a levy could be made without first asking the sanction of parliament. The well-known sagacity of this gentleman (a Scotchman) justifies the presumption, that he was conscious of the far-reaching consequences that would have flowed from such a measure, if it had been acted on in America. Evidently, however, those in power *here* were shortsighted, and the suggestion fell dead-born upon the colonial legislatures.

We have already spoken of Franklin's tax proposition in his Union plan of 1754, and have no hesitancy in saying, that it is ever to be regretted, that that plan and its tax clauses were not adopted. America had a Solon, but did not use him! Why not? Because it was still swimming on the bladders of overconfidence in its social conditions, and did not think, that she needed a wise rectifier of her institutions. And yet we now see, she needed one then more than ever. After Franklin's Union plan had been shelved, partly by the opposition of Connecticut, but mostly by the folly of the British ministry, the Crown came forward with a new financial scheme. It was, that there should be an annual meeting of all the governors of the colonies, each taking with him one or two of his privy councilors, and that this meeting should devise measures for the common defence and general welfare. It should have power to draw on the British Treasury for means, but the sums drawn were to be reimbursed by the colonies upon such a basis of apportionment as the British Parliament should enact. The ministry thought this scheme to be a generous offer; but we feel like applying to it the well-known couplet—

"So devilish smart's the plan  
We might almost call it foolish."

It was at once opposed on this side of the Atlantic.

It had not taken the Americans long to understand, that this plan meant really taxation without colonial assent, and they rejected it. The British Government felt chagrined, but was not in a condition to force things, and, when the French war broke out, they paid for the troops, which did not, however, remove the ill-feeling; though the colonial legislatures assisted voluntarily with men and means, and did it with alacrity.

Franklin's irrefutable argument against this British financial plan, which he had written to Governor Shirley in Massachusetts, had been read in the British Cabinet, and it was seen that a vital principle was involved in the discussion. They now thought it best that no act should be done, which recognized an authoritative Totality in America. The very promptness of the colonies, to assist in the war, indicated the disposition in the American mind, that they meant the war to be *their* war, and its results to be *their* gain. Franklin's plan for the settlement of the west and the disposition of the public lands there, which he submitted with his plan of union, and which is the prototype of all our legislation on our western territories, also exposed this purpose in the American mind. Had Franklin's plans been adopted, and the war would have been waged with American troops and means, and the American Union would have obtained the benefits gained. Canada and the other North-American Colonies would have been under one Union Government, and no pretext for a British stamp act or a duty on tea would have existed. Federal taxation would, in America, have stood upon a much sounder and clearer fundamental principle than it does now.

When, soon after the close of the French war (1755-68), the American Colonies were proposed to be taxed by Act of Parliament, it aroused the deepest resentment, because Great Britain based the equitableness of the taxes on the moneys it had expended in the war for Canada. And now the old Union feelings revived, and Franklin again drew the plan, but either forgot or found it inexpedient, to put in any financial or fiscal provisions. So the revolutionary war that ensued was fought with means voluntarily contributed by the colonies (states), which consisted chiefly of paper money. It looks to us, that Franklin knew, or believed he knew, his countrymen too well to ask them to be patriotic *and* politico-economic at the same time. Mr. Chase stood in 1861 before the same problem, and, like Franklin, refrained from raising questions of taxation, which he feared would dampen the popular enthusiasm, with which he believed he had to work or fail. It will be remembered, that Chase went even back to state contributions, many of the states incurring debts for the purpose, which were repaid afterwards. The method of state quota was a historic one, and it was so tenaciously clung to in 1776-87, because it was the only way to avoid a recognition, that any other than state (colonial) governments had a right to tax men and things. The words, "direct taxes," in the Constitution of 1787, must be understood in that light. Under the Articles of Confederation, state quota was the financial method exclusively.

February 3, 1781, a member of Congress from New Jersey



moved a recommendation to the states, that Congress be vested with additional powers to provide means for paying the public debt and prosecuting the existing war, *by laying duties on imports and price goods!* It is a thousand pities, that this *third* suggestion of general taxation was not then promptly adopted and adhered to. One state (Rhode Island) objected, and it went to a committee, consisting of Hamilton, Madison, and Fitzsimmons. Their report refuted the objections of Rhode Island, which were really frivolous and hypocritical. It is one of those but too numerous instances, where love of liberty was the pretence, and selfishness the real motive. Rhode Island was levying both import and export duties on the produce of the states, that needed its ports to trade with other nations, and it did not want to relinquish that revenue. The duty proposed by the New Jersey member was but five per cent., and it was to cease when the revolutionary debt should be paid. For five years this game of defeating every salutary fiscal amendment was continued; and the confederacy remained helpless in its finances. And if it had not been for Washington, Jay, Morris, Hamilton, Madison, and others, who were untiring in their efforts to save the credit of the United States, and the nation would have been financially disgraced in the first ten years of its existence. The only course left open was to draft an entirely new Constitution, and for this purpose a Convention was called in February 1787.

During the discussions, between 1778 and 1781 (in the framing of the Articles of Confederation), the proclivity for adopting the modern European simplification as to taxation, became first distinctly visible. It came in this wise: The committee reported eight days after the Declaration of Independence a tax clause, providing: that "all charges of war and all other expenses incurred for the common defence or general welfare and allowed by the United States assembled, shall be defrayed out of a common treasury, which shall be supplied by the several colonies in proportion to the number of inhabitants of every age, sex, and quality, except Indians not taxed." A Mr. *Chase* proposed to confine the enumeration to the white population alone, which Mr. Adams opposed for very cogent reasons. (See Jefferson's "Correspondence," vol. i. page 23.) Mr. *Harrison* suggested the counting of two slaves as equal to one freeman; and Mr. *Witherspoon* of New Jersey proposed dropping population and general wealth altogether, and making the value of lands and houses the measure for the apportionment. This basis was adopted and formed Art. VIII. of the Articles of Confederation. Congress was to provide the mode of valuation,

and the levy and collection was to be regulated by the state legislatures. It is the common belief, that the serious difficulty of this plan of taxation was the dependence of Congress on the colonial legislatures, but, we opine, that the valuation of the lands and improvements was the most perplexing obstacle. No government has ever solved this difficulty. To be at all equitable, valuations must be frequent, and that is very expensive, and never accomplished with that accuracy and fairness, which is the main point in this method of taxation.

The constitutional Convention of 1787 was a reaction against the unreasonable hindrances to good federal taxation interposed by Rhode Island and other states, which had defeated the New Jersey proposition. It took several years of wise counsellings between the better minds of the country to bring the Convention about; but when it met, it inserted tax clauses in the Constitution, that went beyond the original aim, and produced complications, that are still far from being properly adjusted. Art. I., sect. 8, clause 1, gives Congress power "to lay and collect taxes, duties, imposts, and excises to pay the debts and provide for the common defence and welfare of the United States." This is not only pleonasm of language, but also of authority. The subsequent restriction, that "all duties, imposts, and excises shall be uniform throughout the United States," was a lame attempt to get back a part of the *over-grant*, and exhibits the indefiniteness of the tax conceptions of the day. Why should not *taxes* also be uniform? Another clause requires capitation and *direct* taxes to be levied "in proportion to the census of the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons." Are we to understand from this that duties, imposts, and excises are *indirect* taxes? If that be so, then the two clauses should have been placed together and made perfectly plain by definite terms. The subsequent negation on an affirmative power confuses the mind and perplexes public counsel.

The reader must see, that too much was hoped for from the required *uniformity*. A federal burthen may be uniform and yet most unfair in principle. No capitation or direct taxes were ever levied, because whenever a law was attempted to be drawn for these purposes, it was found, that there would be such obvious injustice and such great expense as to make the whole thing impracticable.

It is a fair inquiry to ask: What conception as to the correlation of taxation and representation those had, who drafted the clause just quoted, when taken in connection with the provi-

sions for a decennial census and the apportionment of representatives, Art. I., sect. 2, clause 3? Was it the old British one of "representation of distinct interests"? Or was it the modern idea of indistinct, infinitesimal representation of each taxpayer within a voting multitude? We may be told, that in the Senate the old idea was retained, while in the House the modern prevailed; but we beg to differ and suggest, that the conceptions of the Fathers were indefinite as to both, and that neither was logically followed. The south bought (as things went) a worthless reduction in direct and capitative taxation, by relinquishing a most valuable right of representation; one, which it lacked sadly in the crisis of its fate in 1860. No capitation or other direct tax was ever really levied, but the three-fifths were always deducted in the quota of representation. Had the clause read: *If* the federal revenues shall be raised by capitation or direct taxes, *then* there shall be deducted from the number of all persons bound to servitude two-fifths thereof as to representation; and the south and the north would have escaped much mystification.

Adams's argument (vol. i. p. 23, Jefferson's "Correspondence") that "numbers of people are an index of the wealth of a state," should have warned them to eschew such compromises. They have had a mischievous effect in many ways; the most injurious to the south being, that it started with, or rather let us say, confirmed in the public mind, the idea, that slaves were not a proper basis for representation. At the same time it strengthened the other—not a bit truer—idea, that wealth was the only fair criterion of taxation. The reader cannot fail to see, that the south thought itself following the old conceptions of the correlation of taxation and representation, when it really abandoned it, and drifted into that of modern political schools, in which distinct interests have their representation merged in a general representation.

It always leads to misconstruction in constitutions, to intertwine in clauses subjects, that should each stand on its own basis. Representation, taxation, and the ascertainment of population (census) cannot be the measure of each other. A person may be represented, that should not be taxed, and individuals may be taxed and not be represented; so folks may be a part of a population and not be active members of the body-politic. And so also may it be wrong to make the elective franchise dependent on the payment of a poll-tax, and yet be perfectly right to levy a *per capita* tax and to allow a deduction for voting. *No one* tax is right for *all* public purposes; no really public or common purpose should be paid for by one specific

tax, either on the person, the wealth, or the occupation. Conferring benefits or rights *per capita*, and paying for their cost by taxes on wealth, is as great injustice, as granting privileges and exemptions to wealth, and raising the public revenues by excises or personal taxes exclusively. The first is a standing temptation to use the ballot-box for spoliating the so-called rich, for the benefit of the so-called poor; whilst the second tends to make the rich richer and the poor poorer. Taxes on consumption are the only ones, that may be largely used without gross injustice; but even they, when they are the exclusive source of public revenue, may, if tendentiously imposed, such as protective tariffs; or for puritanic hatreds of what moral rigorists call luxuries or vicious enjoyments, act very tyrannically. We repeat, representation, taxation, and censuses must each be treated on their own inherent reason; and the government must be left free to do justice to itself, for all, from the respective standpoints. It was wrong for the English parliament to tax the colonies, because *it* was not their rightful government; but representation would not have made it rightful, unless it was sufficiently large to amount to a veto. A war fought for the aggrandizement of the crown or the empire, should not be paid for by the colonies as was attempted for the French war 1756-60.

We feel fully the delicacy with which we should approach the work of sages, such as the Fathers of this republic were; but nevertheless have had to say, what we did say, because it is true; and necessary to an understanding of the subject. And if we could now call a council of all the secretaries of the treasury from Hamilton to Sherman, they would, we believe, agree with us unanimously.

Why have the tax provisions of the Constitution never been fully carried out? Why have taxes, that were constitutionally authorized, never been enacted? And why have taxes, that are really forbidden, been constantly used? Can there be any other reason, except the indefiniteness of our constitutional provisions and the confusion they create in the public mind?

Art. I., sect. 10, clause 2, contains one of these neglected and non-used clauses. It forbids States from levying any imposts or duties on imports or exports, *without the consent of Congress*, but it provides that "the net produce of all duties and imposts shall be for the use of the treasury of the United States." Does this clause relate to *foreign* imports or exports alone, or might there be duties collected on imports from other states with the consent of Congress? Clause 5 of sect. 9 does not help us out, for it only says: "No tax or duty shall be laid on articles



exported from any state." If states could, with the consent of Congress, levy duties on goods imported from other states, and it were confined to articles on which the tariff lays duties, if imported from abroad, it would open the way to remove much of the unjust spoliation involved in our protective tariffs.

Neither tithes nor any taxes, payable *in kind*, are, in our opinion, constitutional in the United States; money must be the measure of all taxes, as well as duties and excises. Mr. Gallatin has drawn up a very ingenuous and sound argument going to show, that the creation of fluctuating, because irredeemable paper money, is a violation of the Constitution; and he gives as the reason for this assertion, that it destroys the uniformity of the constitutional standard of all tax levies—money.

The lack of *one* power by Congress, that of making assessments for expenses incurred by the federal government, upon property and vocations specially benefited by it, is in our opinion a serious defect. No public improvements can be justly made by any government without the exercise of this power. It is now chiefly in the way of a proper system of internal improvements. The only clause approaching this authority is in Art. I., sect. 10, clause 3, which, in a back-handed way, allows states to levy tonnage duties with the consent of Congress. They are for some public works and objects a very fair tax. Why has it never been used? Evidently because the people have all become habituated to regard their rights upon public treasuries by one standard, and their duty to contribute, by quite another. The true ethics on the subject of taxes and assessments have never existed.

In 1791 Congress enacted *an* internal revenue measure; it imposed a duty on domestic liquors, and it led to the open rebellion known as the *Whisky Insurrection*. Mr. Jefferson, who had Gallatin at his elbow as Secretary of the Treasury, said of this measure (vol. iii. p. 308, Jefferson's "Correspondence"): "The excise law is an infernal one. The first error was to admit it by the Constitution; the second to act on that admission; the third and last will be to make it the instrument of dismembering the Union." And after he had become President he felicitated the country on its repeal, and, speaking of the only remaining revenue measure (duties on imports) except land-sales, he says: "These duties are chiefly paid by those, who can afford to add foreign luxuries to domestic comforts. Being collected on our seaboard and frontiers only, and incorporated with the transactions of our mercantile citizens, it may be the pleasure and the pride of an American to ask: What farmer, what mechanic, what laborer, ever sees a tax-gatherer of the

United States?" While Mr. Jefferson was no doubt right in the principle, that a *federal* government should not get its revenues from *excise* duties, unless collected by the states, or if collected by the United states, paid over to the states; and that the more practical taxes are duties on imports collected at seaports and on frontiers, if levied purely for revenue purposes; yet we owe it to our subject to add, that all indirect taxation, that is concealed from him who pays, is open to many more objections, than direct taxes would be, even if collected openly and squarely by federal tax-gatherers. Why should a wise and virtuous people prefer a concealed to an open tax? Why pay readier two dollars covertly, when an openly-paid dollar would suffice? Not seeing a tax-gatherer and yet collect taxes may be, nay is, a cheat and a fraud. When merchants collect in the sale of goods manufactured in the country, and protected by a tariff, revenue for factory owners, they are but the tools of Government for levying unjust taxes and spoliating one class for another.

In the main, the Government of the United States has drawn its revenues from customs duties, and there is every prospect, that whenever the consequences of the war of 1861-66 shall have worn off and the Union be returned to normal conditions, it will again resort to no other taxes. Would we could add to this our hope, that with this return a system will be adopted, which, being free from the folly and wickedness of protection, will carry no greater burthen to the people, than the amount of money actually drawn from them under it. If there must be protective rates, then levy either corresponding internal duties or authorize the states to do so.

The first tariff, that of 1789, had a pretty nearly uniform *ad valorem* duty of five to seven per cent.; its object was to pay the revolutionary debt and the current expenses of the government. In 1791 Hamilton broached the policy "of so shaping the tariff, as to afford protection to agriculture, commerce, and industrial pursuits." Jefferson and Madison at once opposed the proposition, and Mr. Hamilton could gain the assent of Congress only to small increased rates on a few articles. He persevered, however, and soon succeeded in getting a resolution passed recognizing the propriety of a general revision of the tariff.

This revision was undertaken; and in the new tariff were rates as high as twenty per cent. In 1797 a further increase of two per cent. on all rates was carried. And this was done, although Mr. Jefferson's friends had a majority in the House. It was the first instance of an afterwards oft-repeated fact, going to show, that, on the subject of free-trade, no public

man in the United States is fully reliable. Even professed free-traders vote, under one pretence or another, for protection. The causes of this inconsistency we will discuss directly. Some special emergency always supplies an excuse; in that case it was the want of a fleet to punish the Barbary States. In 1804, under Jefferson, an increase of two per cent. passed even unanimously, and was approved by him; and with this tariff the country reached (1812) the second war with England.

For twenty years the public mind had then become more and more imbued with the infatuation, that every increased rate would also increase the revenue, and the facts seemed to justify the assumption. The real truth, however, was, that there was a rapid growth in population and wealth, which overbalanced the financial miscalculations, that would otherwise have appeared. Acting on these false ideas, Congress, wanting extra revenues for the war of 1813, simply doubled the rates, and declared them established during the war and for one year beyond. Both Woleott and Gallatin had tried to get up effective internal revenue systems, but succeeded only very defectively.

The proceeds of the double rates were not double those obtained under previous rates; which fact did not open their eyes to the utter inadequacy of their revenue systems. Instead of correcting the tariff, and firmly providing other resources by fair internal taxation, they were timid as to internal taxation, and had to have recourse to loans from state-banks for their notes. And when the war was over, the debt of the United States amounted to 130 millions; and the banks had, with few exceptions, suspended specie payments. The country was financially sick, and it was, as often in its critical periods, without the public spirit, that would sustain its statesmen in undertaking the right cure.

It had, indeed, two young capacities, who, if they could have been objective reasoners and national thinkers—Calhoun and Webster—had the native genius to work out true measures. Jefferson, Madison, and John Adams, all three were then also still alive, but were “out of politics,” as the phrase goes, which meant that they had become useless to the country. *Calhoun* and *Webster* were, however, in public life, and had great natural talents; and it is important, that we should understand, why they failed to frame proper revenue laws.

The reason was, in our opinion, the peculiar political conditions of the period, that rendered it almost impossible for public men to be the statesmen of the whole Union; for they were too much tempted to be the politicians of their states and their sections. Calhoun advocated the tariff of 1816; Webster

opposed it; but neither acted from well-grounded principles. The country needed not only a tariff, and it on correct grounds, but also an internal tax law with proper equations of the duties levied on exports. The tariff of 1816 was too protective to be fair to all the states and their people.

The south soon perceived, that to it this tariff meant an unjust share of the public burthens; and the north early saw the special benefits it gave to its manufactures; and the purer and wiser minds in both sections understood, that it collected much more money than that collected at the custom-houses. And what did Webster and Calhoun do, as these facts appeared? Did they rectify their course? No! They each turned right round, and went to cultivating the respective local feelings and use them as step-ladders to their ambition. And their respective states and sections were weak enough to support them in their course, which was the beginning of the partisan geographical formations, that alienated the north and south more and more, and involved finally the western portions of these sections in *their* respective quarrels. The west had indeed also a master-mind—Clay, but he never filled the position, which his Virginia birth and Kentucky residence gave him; for he fell northward, when he fell in 1824, and never recovered either his right relation to his state or his section. At no time did he rise to the ethics of true statesmanship. Jackson and his better supporters aimed at this; but neither Calhoun nor Webster ever co-operated heartily with them, and the country drifted along for twelve years with its imperfect tariff legislation, its utterly deranged paper currency, patching up here and there, but never arriving at a comprehensive national policy. New England had a definite tendency, for it understood itself, which can neither be said of South Carolina or the states that followed its lead. The result was: the still more protective tariff of 1828 was passed by an infatuated northern party majority.

The tariff of that year was the main measure of J. Q. Adams's administration. It was the natural child of the tariff of 1816; because statesmanship in the national sense had, for reasons stated, become impossible. The two men, who had the brains to take that position, were the politicians of their sections, and powerless, as events proved twenty years afterwards, when they essayed to cease to be the intensifiers of their respective sectional interests and prejudices. Both had moments, when they saw, that this state of things was taking from them the very positions (those of being national leaders) which their inner sense told them they ought to occupy; because then their



greatness would have been synonymous with their country's welfare. But they never could get out of the ruts, their course had made, between 1816 and 1828. They and the country with them, had to learn by bitter experience, that to be a nation requires national statesmen; and that when those, who might from their innate genius be such for the country, waste themselves on a subserviency to local selfishness, the country is ever in peril. And this very status caused the defective federal tax systems, that drove the country almost over the precipice of nullification in 1832. Jackson being a western man and the free-est from sectionalism, prevented it, with the help of Clay, another westerner, but they too did not solve the question by some comprehensive measure. They only effected a compromise.

What perplexes the inquirer into the history of these periods most, however, is the fact that the country was prosperous in spite of bad tax laws, false money, defective legislation, weak executives, incompetent administrations, and the misplacement of its great minds. Where were the American statesmen to find the criterion for judging of the future permanent interests of American society? In history? America was to all appearances the contradiction of all antecedents. In philosophic inquiries? The United States seemed to be subject to no economic law, for its mistakes were all covered by the vastness of the country and immigration! By intuitive reasoning? Aye! was the response; but unfortunately the intuition consisted merely in "*jumping at conclusions.*"

That was particularly the case with the so-called "American system," which Clay meant to be his ladder to power and fame. What was there American in it? Nothing but the hasty assumption of false premises, and the belief (hardly conscious amidst so much to mislead) that they would, being sugared with national vanities, stand for good. And they did, for a while, but could not for ever; because to do that, they should not have been vanities.

We can say, therefore, of Calhoun and Webster, that, master-minds as they were, they had, without full consideration, adopted views in 1816, which they had to change, to be anything in American politics, because they had to act in accordance with the interests of their states. Neither took at any time the right, far-seeing view, which they would have done, if, besides their legal culture, they had mastered the social and political sciences then accessible to them.

We will not discuss, who was most to blame for this want of national (ethical) statesmanship, whether the states imposed it on their men of genius, or they cultivated or at least intensified

and misdirected it? One thing is obvious, and it suffices here, to wit: the states were mistaken in their leaders, if there was to be a peaceable—orderly—federal Union, and these leaders were mistaken in their assumptions, as to their true attitudes, as public men in that Union, if true national renown was their object. When the people voted they should have been conscious of their duty to the Union: not to send to Washington the mere indicators of home politics; but to elect men capable and willing to harmonize local diversities into a national public will. And the respective public men should always have held high the banner of national politics; by letting it be understood, that they ever mean the correction of local politics, so far as the states attempt to make their prejudices the standard of right for the Union. The opposite was the course pursued; and thus it came that the financial, fiscal, and political disease, caused by the war of 1812 and our parties, was not only *not* cured, but constantly aggravated, so that it became chronic by 1828. The tariff of 1816 was not in itself so very wrong, its average rates were only about thirty-five per cent., but it set in motion a surreptitious tax policy, under which some states went scot-free from paying anything to the support of government, and in fact made money out of taxing others; whilst it overburthened others and checked their growth. The rate was afterwards raised to forty per cent., and thus an uninformed popular mind was misused. When by 1830 it was found out, how wrong the tributary states had been treated, it caused discontents, which demagogues could and did use for their ends.

When in 1828 the tariff rates, that had from 1792 to 1824 gradually risen from five per cent. to forty per cent., were again increased, on the demand of the protected interests, and protection had to be extended to more fabrics than ever before; it opened the eyes of many people, and they saw the falsity of the pretence, that because slightly protective tariffs are proper means to help manufactures in their infancy, that therefore it is correct to pamper to them for ever. The contrary was seen by many, but only expressed by a few. Calhoun, who in 1816 had supported a tariff, now openly proclaimed, that his state and people were spoliated by it unjustly, and that he advised them not to submit to it. His arguments were, however, partisan, not economic; and Webster used this adroitly to throw dust into the eyes of persons, who would on economic grounds have gone with Calhoun against protective tariffs, but would not sustain nullification. It misled also Europe, and misplaced the whole question. The economic proofs against the protective policy were at hand; for the fact, that higher and higher rates and for

more and more fabrics, were asked, was in itself positive proof against them. But the unanswerable argument was the fact, that the system was a wholesale spoliation of the self-supporting producers of the land, and destructive of their best interests. Is it not plain, that, since every soundly progressive stage of social development is but the entirety of the various industrial, skilful, and economic elements composing it, that therefore everything that lowers and dwarfs these elements, must make each social stage of development less than it would be, if those reducing causes did not exist? And that is exactly, what protective tariffs do, because under them there is less skill, less industry, and less economy than under free-trade.

The *economic* side of the attitude of South Carolina, though not clearly presented, was universally admitted by 1832, but how to concede it, without yielding to the *political* heresies that accompanied it, was the ticklish question? It was well for the country, that a Jackson was at the head, and that he had unlearned the many false politico and economic notions, which disfigured his letters and speeches between 1823 and 1828. Henry Clay was also half ready to abandon his so-called American system. So he proposed a compromise, which was accepted by Webster and Jackson; and it, on being passed by the Senate, pacified South Carolina. It was: that the tariff should be gradually reduced, so that by 1841 there should be no higher rate than twenty per cent. The national debt was paid from the proceeds thereof by 1835, and then it accumulated by 1839 a surplus of some thirty-nine millions, which was divided according to representation among the states. These simple facts prove, how little the public men of the period understood how to adjust federal taxation upon a sound basis. We may thank them for averting commotion and war, but must blame them for neglecting to do fully right. The punishment came through the election of 1840, when a befogged and misled people defeated Van Buren and brought in Harrison. In 1842 the compromise of 1832 was wantonly broken by Clay himself, and a new protective tariff enacted.

A salutary change had, however, taken place between 1836-44 in the press, and through it in public opinion. It used to be formed exclusively by partisan newspapers, and especially those at Washington, Baltimore, and the capitals of the states; but now the journals at the commercial centres, especially New York, took the lead, and the public mind was now fed, beside the dry husks of partisan dialectics, also on economic truths. The mercantile spirit, always more enlightened than that of parties, was now infused, and with it came a closer contact with

modern European thought. The newspapers themselves underwent a change: they brought not only more news, but more scientific truth.

So, when in 1845 *Robert Walker* became Secretary of the Treasury, he found the public mind prepared for the repeal of the tariff of 1842 and the substitution of a *revenue* tariff. Its average rate was twenty-four per cent., and it—mark the fact—yielded *increased* revenue. In 1857 it was revised, but not brought up fully to the pure revenue standard. The protective heresy was still in it, and was never eradicated, as it had been from English legislation, by the free-trade league. In 1861 came the inauguration of *Lincoln*, a protectionist, with a Cabinet, that was loose on every economic question, but intensely bent upon partisan and personal success. It was now seen, that the American mind was, as a nationality, still sadly behind the wise economic spirit of the age, and it was used for the perpetration of all kinds of financial follies.

It was then found out, that the American people could be bled copiously both for government and protective (private) purposes, provided the press fanned some real or pretended patriotic, windy motive into a public passion. Thirty-two years previous the land had been startled with the cry, that there was a “union between the blackleg and the puritan;” now it took readily to the much worse union of the shoddies and puritan partisans. It was wonderful, what a crop of mushroom financiers, generals, statesmen sprung up night after night! After a brief hesitancy, yea, we may say, delinquency, Mr. Chase plunged headlong into every species of taxation, but each with imperfect ways and at hap-hazard rates. At the same time the states and the municipalities increased their exactions of the public. All were astounded at the ease with which millions upon millions were collected and expended. The amount thus consumed of the wealth of the country, in six years, was, as we estimate it after careful calculations, at least 15,000 millions; so that in the ten years between 1861–71 full one-half of the entire wealth of the country passed through the sieves of our governments. The only instance in history, that exceeds this plundering of a people, was that of *Wallenstein*, who, according to *Schiller*, levied 60,000 millions of thalers on one-half of Germany through military levies and confiscations. America held a financial *hate*—not love—feast, at which the partisan press fiddled, the politicians danced, and society groaned, but called itself a Nation.

Nor can any section of the Union or special portion of the population, claim exemption from the folly; for it was as bad in the south as in the north, in the lower as in the higher circles



of society. And Bismarck's statement, that "errors and vices are chemically mixed in society, and do not lay in strata," was fully exemplified. In estimating the total amount, we took into account not merely the burthens imposed by law for federal state and municipal purposes, but also the manifold—half-voluntary and half-compulsory—contributions drawn from society for the "drafts" and "soldiers." We computed also the amounts taken from consumers of fabrics through protective tariffs, and the whisky excises, the greater part of which never reached the treasury. The worst effects were produced by such *prospective* levies or excises. The government would, say in June 1862, enact a tax of \$1.00 per gallon on whisky, but exempt from it all then on hand as well as all that would be made until February 1863. The tax was, of course, no *revenue* measure, but an outright *robbery* of one portion of the people by another. This process was repeated until the tax reached two dollars per gallon. In this way 1500 millions were filched from the consumers by whisky taxes alone. So there were large sums by those levied on tobacco and beer. The cotton speculations took several thousand millions, and it seemed, as if the Union authorities were in a combination with those of the confederates, to fleece all users of the cotton fabrics. Europe was astonishingly blind upon this whole subject; it applauded us in our follies, because slavery was fought by them.

Add to this sort of indirect, in fact wild, taxation, the interpolations of some dozen forms of public credit, some being at interest and some not, and no two at like rates. They were therefore never even par with each other, but bore premiums in the stock market or were subjected to discounts, through gamblings in the money market; the government aiding and abetting them. There was also much smuggling both as to imports as well as whisky and cotton. Take beside these the frauds and briberies in freeing men from drafts, and our total estimate of 15,000 millions will not be deemed too large. Suppose now, that we assume, that of this sum 5000 millions were legitimate expenses—and by legitimate we mean the amount that it would have cost if we had had an intelligent, economic, and well-disciplined government to carry on the war—and we have 10,000 millions to be charged to ignorance in finance and to maladministration in fiscal matters. This is the cost of a government that ruled by exciting popular passions; got them voted into the ballot-box, and then abused the confidence placed in it, by all kinds of jobbery and false taxation. That the people could be thus abused indicates a popular weakness from which the world had believed America exempt. And

though it pains to write it down, nevertheless it is true, that this very belief on the part of Europe made it possible, for the American corruptionists to perpetrate their villanies.

Here it was partisanship, that blinded the people, as well as the government. It had begun with Hamilton and Jefferson, and was only largest and intensest under Chase. No administration inquired for or understood the truth, which science would have pointed out on public questions. The elections stood ever before the eyes of the politicians, and they had to cater *volens volens* to a popular cynicism on questions of taxation. And that is the reason, why systems of revenue were so much in vogue, in which the hands of the government were hid, and the amount really collected was never known. Twice as much (at least) was paid by the people, than would have sufficed to maintain the government. And if our readers will simply take the pains to see who, in the United States, lent the south and west money for public buildings and works, they will find, who was the beneficiary of the sums taken from the people through indirect taxation, the proceeds of which were never received into the treasury. We have tried hard to ascertain the amount thus surreptitiously taken from the consumers of goods, since the first tariff was enacted, but were unable to find the respective amounts of imported and domestic (protected) merchandize, before 1829. From the best data, since accessible, we have compiled the following table as between 1829 and 1838, the period when the surplus of thirty-nine millions, that had been collected under the tariff of 1828 and Clay's compromise, was divided among the states:—

Year.	Amount collected into the Treasury.	Amount collected, but not by the Treasury.
1829 . . . .	22,681,966	50,727,864
1830 . . . .	21,922,391	47,689,564
1831 . . . .	24,224,442	56,889,768
1832 . . . .	28,465,237	73,860,948
1833 . . . .	29,032,509	77,565,244
1834 . . . .	16,214,957	24,859,828
1835 . . . .	19,391,311	36,575,244
1836 . . . .	23,409,940	53,639,760
1837 . . . .	11,169,290	15,077,160
1838 . . . .	16,158,800	24,635,200
Total of the period .	212,670,843	461,520,580 212,670,843
Total collected . . .		674,191,423

We do not claim perfect accuracy for our estimates, but give them to bring before the eye of the reader, in figures, the immensity of the false distributions of wealth, that were then and are now perpetrated in the United States under the plea of protecting American industry. We estimate from this basis, that the total amount so drawn from the consumers, during the first hundred years of our national existence, was 2000 millions. And this amount represents the degree of retardation that has been borne by the west and south; they being deprived of that amount of the capital, which their soil and labor had created.

With this estimate of protective tariff spoliation before us, we call to mind the fact, that during all this period the American people and their government were busy to devise means for roads, canals, and eventually also railroads, and to construct them—don't laugh!—"constitutionally." The presidential messages, the public orations, and the press are full of plans and projects as well as disquisitions on the Constitution, but in none of them do we find a clear comprehension of the resources of the country, that were at the disposal of government, nor an economic scheme for their disposition. We read, indeed, much of "inexhaustible resources," but right alongside are passages, that read as if the country was in a state of exhaustion. The truth was, that there were neither inexhaustible resources, nor any exhaustion. There was simply a want of courage in the public men to find the right ways to utilize and to apply the means, that actually existed in strict accordance with our peculiar institutions, so that each would discharge its proper functions. Had this been done, and the amounts necessary for all public wants, being fairly distributed by wise taxation and fair assessments, could have been easily brought out for public use, and would have led to a much better general and permanent enhancement of American society, than there was.

And this brings us again to the chief impediment in all politico-economic researches in reference to this country, to wit: America *grows* with all its pernicious systems of taxation and incompetent public administrations! And the social and political scientist is pointed to this general and augmenting prosperity as the unanswerable proof of the error of his admonitions. The facility, with which the constant growth, that exists in spite of political errors and wrongs, is used to make the people believe again and again, that this or that man, or this or that measure or policy, could be the highest and best attainable in America or any other nation, is perfectly marvellous, when we must see, how frequently these false assumptions have had

to be again abandoned. Not a single public man, Washington alone excepted, has stood the test of time, when we compare the sober after-judgment with his contemporary fame. Nor has a single measure survived its earlier over-praise. We have therefore a national vanity, that blocks our best progress; because a people, who think to have reached the acme of perfection in men and things, will of course stop trying to improve on the models, which it believes to be perfect. Thus, while in Europe events stultify early the false politician, here his popularity survives them for some time, because society charges his errors to anything but the right cause. National vanity is his shield. The true politician is confounded by it, and the statesman puzzled. If they assume with the "*British Quarterly Review*" of January 1872, that "each stage of social development is (relatively) perfect for its condition;" it leaves the question open, whether that condition is as it ought to be. American society has had, doubtless, all the growth it was capable of, with the intelligences, virtues, and wealth that was in it and flowed to it; but does that establish the proposition, that there might not have been more knowledge, higher integrity, and greater use of public wealth? We admit, of course, that this increase must come through an augmentation of the individual or corporate producing elements composing a society; and when we apply this to the question before us (protective tariffs) it amounts to the inquiry: Whether such measures tend to enhance and stimulate, or to reduce and dampen individual intelligence, industry, skill, and economy? If they do the first, tariffs are right; if not, they are wrong.

Now it must be plain, that a manufacturer needs both in himself and his employees, less industry, skill, and economic foresight under a protective tariff, than he would have to use, if he had to do business in free competition! He begins business more carelessly, and carries it on with less economic morality, than he would do, if he had to look to himself alone for his success. He will certainly not think it necessary to improve in his manufacture; for that which stimulates to improvement—competition—is, if not entirely absent, present only to a slight degree. He becomes, therefore, sluggish and negligent in everything necessary to permanent success. Soon the outsiders, that have all this time been under very different incitements, overtake him and beat him, in spite of protection; and now he, unused to look to industry, skill, and economy for success, goes to government and asks for higher protection. And that is the reason, why the American tariffs began at five per cent. in 1797, and rose to one hundred and more per cent. by



1870. And this answers also our other inquiry ; for it proves, that though American society, in consequence of immigration and cheap lands, grew steadily in wealth, it did not grow as much nor as well, as it would have done, if there had been free trade. The men taxed were retarded, because they could not gather capital ; and the business protected, was injured, because it had less industry, skill, and economy, than it should have had.

That Monroe, J. Q. Adams, Clay, Calhoun, Crawford, Webster, Clinton, and others overlooked this matter is unexplainable upon any other hypothesis, except the one, that they were not at home in the question, and avoided it for reasons given. Jackson was, at least, not afraid to look squarely at it. He said in his first message : "After the extinction of the public debt it is not probable that any adjustment of the tariff, upon principles satisfactory to the people of the Union, will, until a remote period, if ever, leave the government without a considerable surplus in the treasury, beyond what may be required for the current service." Will the reader please mark a few expressions here, which will give him a deep insight into the condition of even the higher class of minds in the United States ? Jackson had an able Cabinet, and yet it allowed him to speak of principles *satisfactory* to the people. Suppose they had not been satisfactory, but nevertheless correct, by the rules of science, should they have been rejected ? Then the words : "Surplus beyond what is required by the current service." Does not every one see, that the very rudimental rules of finance were missing ? We refer to the rule, that tariffs and revenue systems must be squared with the amounts necessary for an efficient public service. Tax laws that produce surpluses are as wrong as those, that lead to deficits ; the surpluses being the worse of the two.

The old hero himself, who, if not a schooled financier, had much hard sense, tried to work out the train of thought, on which he had started. He suggests that the surplus might be employed "for purposes of internal improvement." He wants inland navigation improved, highways constructed, but thinks direct appropriations of money for them questionable, and proposes "an amendment to the Constitution to authorize an apportionment of the surplus among the several states according to the ratio of representation." Please note the leap taken here from the revolutionary axiom, that "taxation without representation is tyranny." It now chrysalises into a division of the proceeds of taxation by ratios of representation, which would in ninety-nine out of one hundred cases be not only tyranny, but the worst of spoliation. Take a hundred millions of surplus collected by a tariff, such as was then in vogue, and it would

be all paid by the south and west, but the north and east would have shared in its distribution. Jackson saw this quickly, when it was proposed to divide the proceeds of the sales of public lands.

An economist, practically as well as theoretically right, would let his mind run entirely different. He would never have to argue from a surplus; but inquire first: Is a given work or function proper for exclusive federal exercise? Or is it one for co-operation with states, or municipalities, or individual citizens? And after finding the true premises, he would then find the appropriate way to carry his conclusions into effect, the most essential being of course the supply of the means in the correctest way. That this was not done, led finally to the distribution of a surplus of thirty-nine millions, and their *waste* by the states.

Jackson was fixed in his predilections for doing all "internal affairs through the state governments;" he believed also "that in proportion as agents (to execute the will of the people) are multiplied, there is danger of their wishes being frustrated;" and besides: "that few men can, for any great length of time, enjoy office and power without being more or less under the influence of feelings unfavorable to a faithful discharge of their public duties." All these presuppositions were in his way for having the questions of tariff and internal revenues scientifically and technically considered. He was suspicious of every public officer, and looked upon him as so much dead weight on the people. He wanted such a rotation in public employments, that no incumbent should be in it long enough to become corrupt or anti-democratic. He held to the fallacy, that "no one man had any more intrinsic right to official station than another," and did not appear to be aware, that it takes good previous education to fit a man for anything, especially office, and that the fittest, and none else, has a claim to be appointed or elected. A person with Jackson's opinions was predisposed against any and all public expenditure by federal officials, and he could not, with his ideas, *approach* even the thought of a well-organized public revenue system and service. How could *he* have faith in a public administration, officered by men educated for it and entitled to enter it for qualification alone, and to be promoted for superior merit? His only safeguard against corruption was—frequent elections. Suffrage being in his mind a *per capita* right and function, why not office-holding? Indeed, we meet the rule at every turn, that the liberty of America consisted in having all rights *per capita*, and all duties and burthens *ad valorem*. A most damnable heresy.

It is a deep-rooted, historic tendency in the British and

American public mind to care very much more for the question : *Who* shall levy taxes ? than for the principles and methods, by which they are to be levied and collected. And this has engendered a neglect of economic considerations, that is painfully visible in all our systems of providing ways and means for government. All the ingenuity of our public men and the people is expended in raking up special pleadings on the constitutionality of taxes, none whatever on the economic principles and the efficient administration on which all just taxation rests. We stand guard on the comings-in of the treasury, but we are careless of their safe keeping and administration. Yea, why conceal it ? we are all co-operators in their more or less corrupt uses. Surely the legitimacy of the authority, that imposes a tax does not legitimize its wasteful and unfair distribution ! We would not diminish, in the slightest degree, the jealous spirit of the people against conferring taxing powers on public authorities ; but we would like to kindle a spirit of critical inquiry into the modes and the objects of taxation, as well as in their expenditure, with a view to let the public understand, why the safeguards, they have carried over from England, do not answer here the ends sought to be accomplished by them. We may give the general reason ; it is : that they are inapplicable to our condition.

British, as indeed all former European taxation, had its basis in feudal tenures, which originated in conquests. The conquered had to submit to taxation, the conqueror did with it as he pleased. Those who took fiefs agreed to certain stipulations, but all tax beyond this was an *extra* charge, that could not appear to them reasonable. Thus originated the Anglo-Saxon aversions to Norman arbitrary power. And Parliaments were called in, as means to defend them against Norman arbitrariness. The clergy were the people's allies in this important matter, and they were granted seats in these assemblies for that reason. They had the leisure and the wisdom to pay some attention to the details of taxation, and they acted as restraints on the wasteful expenditure of the king and nobles. They were the clerici (clerks) in finances, and Economy had its renaissance in the establishments of the Church ; in its reformatory orders, like that of Cluny, not with the nobles, nor the common people. The cities, the merchants, and especially the bankers, took the lead in more modern times, and they are slowly, but surely conquering or winning over Parliaments and Executives to correcter views. The economy of the Church was a reaction against the profligate lives of Emperors, Kings, Popes, Nobles, and Bishops. But it was unfortunately too cynical in its nature, so that it required

Quesnay, Adam Smith, Delacourt, Montesquieu, and Sismondi, &c., &c., to bring Society to its better social proprieties.

Carelessness as to the mode of collection and the use of the revenue, after its collection, yea the eagerness for getting it expended, had some sense, when it was done, as against kings, churches, or lords, who had feudal incomes by right of conquest; for then it was a restoration of means taken unfairly from the people, and every cent, rescued from being used for mere personal ends, was a gain to the public. But the same negligence, as to how public moneys are gotten, as well as the haste for their outlay on the favorite projects of some special people, has no sense in it in republics like ours; it is, on the contrary, a most dangerous public propensity. When the Queen of England makes a donation or assists in some public works, it diminishes, to that extent, the means that she would otherwise spend for herself or family, or save and accumulate. When a republican government expends means on special schemes, it takes moneys, gathered for general public purposes, for private, local, or semi-public ends, and it is a false distribution of wealth. With a queen it means a restraint on herself; with a republic it means overleaping a barrier. The praises of history of the munificence of potentates in erecting public buildings, &c., have their just reasons for using means, legally and technically their own, for public objects. They gave back to all, what they had an ostensible right to keep or spend as they pleased.

When in later times governments became the agents of the public for special public purposes, and the parliaments voted taxes for the same, either by assessments or general tax, then it was necessary to create special funds, and to guard them against being taken by the kings, &c. At that time the clause arose which is in nearly every American Constitution, viz: "Every law imposing a tax shall state, distinctly, the object of the same, to which only it shall be applied." But in a republic, which should defray nothing from the general treasury, except what has a general object—that is to say: one for which the special beneficiary cannot be found—this clause is not only nonsensical, but actually mischievous. For such governments the rule should read: *No taxes shall be levied except for strictly public purposes, and for these alone shall the proceeds be used. No public money shall be expended, except for objects, for which the personal beneficiary cannot be ascertained, and then only for objects recognized by pre-existing law. Appropriations are not laws, they cannot authorize an expenditure not already recognized as legal by previous enactment. When the cost of any semi-public or private work is ascertained, it shall be assessed on those benefited by them,*



*and only the amount, not so ascertainable, shall be paid from the treasury. These assessments should be the only special funds.*

The framers of the Constitution of 1787 could not free themselves entirely from political reasonings, that had their roots in British historic conditions; but, rather than blame them for any lack of logical discernment of the different government they were dealing with, as compared with that of England, let us praise them for emancipating themselves as much as they did. Had the body of the people been at all equal to them, and the manifold propositions that were fortunately defeated, and the many measures that were unfortunately successful, by which the United States treasury and property was misused, would never have happened. *They*—the people—could not rise to the height of their free position; but would keep treating the federal government and its money, lands, and credit, as if it were a royal government, that had revenues outside of taxation, and that to deplete it was a process of redistribution of moneys collected as a badge of conquest. We can hear even now, every day, men saying: "Oh! never mind the principle, let us get the money into circulation again!" If they fully understood: that, in a republican government, taxes should be levied by general contribution; that the people cause their levy, that they should only be levied for general objects; and that special things should be assessed on the beneficiaries, what a change it would have made in the public will!

But it is time to close this chapter, already much more extended than we had intended. We can only add the general conclusion: that there are not yet any systems of taxation in force in any of the governments of the United States, that rest on justice, as worked out by science or by a gradual perfection in their details. If popular will alone could make good tax laws, we should have the best in the world; for our legislation on this subject, embodies not only implicit obediences of public opinion, but zealous anticipations of them. The public men of the United States know, that peoples' minds are much more occupied with desires to escape taxation, and yet to enjoy its benefits, than they are with the reasonings necessary to have none, but just tax laws. And they understand, furthermore, that some well-sounding phrase or plausibility, that passes for a principle and is promulgated by the press, is the next easiest method to secure public favor. But political economy teaches, that the execution of even a good tax law is the more important point, and as our governments are all weak in their administrations, because we have no schooled officers, it, with the false distribution already explained, explains to us, why

America got in time not only the most exorbitant, but the worst executed tax laws in the world. That our people do not see this fact, does not change its truth; it only proves, that a people may be bled most severely, *provided you hide the lancets.*

The heads of the chief men in public life in America were ever too much preoccupied with their partisan and personal idealities to allow them to see clearly the country's political realities. They had taken grounds that prevented an objective consideration of the subject. No system would have been adopted by them, that did not fit into their respective states-rights or other false extremisms. They had, themselves, some metropolitan spirit, but were afraid of the narrow provincial politicians whom they had themselves indoctrinated with the respective special ideas of government. These became more and more narrow prejudices in their uncultivated minds. And both feared this public opinion, that had, as explained, in part arisen from historic events, but had also been specially cultivated and intensified here. It saw aristocratic spooks in every public institution, that had (as could not be otherwise) a look, as if modelled after British or European patterns. The name tax, bank, &c., had nearly as bad a sound in the public ear as that of Kings, Lords, Chancellors, and High Priests or Popes. The absurdity of such public aversions is the more transparent, when we consider, how many things, both in public and private life, were necessarily more or less imitations—often, too, improvements—of European examples. As we transferred the British system of “clerks,” as a general designation of subordinate civil officers; used “coaches” for the name of the vehicles that carried the mails; spoke of “cabinets” for our presidents, &c.; why should the name “bank” or “tax” or “assessment” scare us away from doing the sensible thing on any subject? We should adopt and avoid things for good reasons, not for mere names.

## CHAPTER XVII.

## STATE AND MUNICIPAL TAXATION.

"Liberty produces excessive taxes, but the effect of excessive taxes is slavery and slavery produces a diminution of the means, from which taxes are paid."

—*Montesquieu*

THIS protest of the author of "The Spirit of Laws" against the liberty-worship of the eighteenth century, reads like prophecy, when we think of the taxation of the municipal governments of the United States. We have the "liberty that produces excessive taxes," and their effect is slavery over the thrifty part of our society to an extent that discourages production and prevents saving. But the extract not only reads *like* prophecy, it *is* prophecy, and of the best kind, to wit: that it announces a law, and the results certain to follow its violation, as lessons of historic research. And why have we infringed on this law, though known to us; and brought upon us the penalties, though predicted for us? Because we thought, that our liberty was exempt from the faults of that of the Athenian democracies, of the Roman republic, and the governments of the so-called free cities and principalities of Italy and Germany. And we are now waked up by the most fierce abuses of the taxing power, which the world ever saw. We slept, because we presumed, that ours would be, not merely the lowest taxation in amount (that, however, would prove nothing), but the wisest expended public revenue. If our object had been to prevent the formation of capital, we could not have devised measures more certain to accomplish it. In any other society the deleterious effects would have shown themselves within the first five years, while here, owing to peculiar extraneous circumstances (emigration and a large landed area), it has taken near fifty years to come to the surface. The truth is: that instead of being less careful in our finances and fiscal administrations, we should have been more so; and instead of our believing that our voters need not be put under as severe restraints as Kings, Hierarchs, and Nobles, we should have known, that a multitude requires both more numerous as well as more definite restrictions.

The arrogant doctrine of there being *unlimited* powers of taxation in any government, first advanced by monarchs, then denied by the great jurists and economists of the sixteenth, seventeenth, and eighteenth centuries, and under their advice placed under restraints, is now reasserted in America under the plea of popular sovereignty. And other plausibilities, that wear the mask of liberty, followed of course. It was therefore proper to remind the reader of the ground taken by one of these great minds, who lived and wrote over a century ago, as to the effect of liberty on taxation. His sense of right told him, that the right to tax is no larger in a republic, than in a monarchy or an aristocracy; and that it is no safer in a People's hands, than in a King's; nor likely to be more justly exercised. No government can, as he holds, take more than a fair portion of a subject's earnings, and *it* only "because it secures the agreeable enjoyment of the rest." Furthermore (he says): "it is the duty of a government to measure honestly, how much a taxpayer *ought* to pay, and not merely to guess how much he *can* pay." It amazes us to find contrary doctrines advanced in America, and that they are so popular. Hence we deem it a fair inquiry, how it was possible, that states, who revolted against the tax sovereignty of a king and parliament, should miss entirely the true principles announced by writers, like Montesquieu, on this subject; and reassert in their constitutions and laws, impliedly at least, the old arbitrary unlimited powers of government over the means of their subjects. Under the regime of popular sovereignty we have not only asserted the omnipotence of government, but adopted also the other error, viz: that popular governments are under no obligations, except those, which they self-impose by constitutional law. Yea more, that protection is not due to the very wealth, which keeps up government. A person, once popularly supposed to be rich, has, according to these ideas, no rights, unless they are conferred, but he is presumed to be under the duty to bear taxation because he is rich. With the supposed poor, it is the reverse; they have rights by nature, and owe nothing to the state except what they vote upon themselves.

We admit that these objects and results of our public rules have not been expressed in so many words; but we contend, that they are the reality, that stands behind our systems of taxation and our action towards private wealth. All that thrifty men can do among us, is to save their means and enter with them into a sort of legalized bastard condition; for if they want to have any legitimacy in the republic, they must either be unthrifty and have no visible layings-up for evil days; or



join in some corporate combinations or social interests that bleed society under the pretence of doing it service. The fact, that this is so now, is no longer denied, but, that it is the result of a vicious and deluded public spirit embodied in our state constitutions, is not known. We have deemed it proper to examine them with reference to this point, and we ask the reader's attention to the analysis, that is the result of our research.

Let us take up first the Constitution of Massachusetts; it is the first in time (1780). That state is (deservedly) regarded as the leading commonwealth of New England. It contains the following clauses on the subject of taxation:—

“Full power and authority is hereby given and granted the General Court (their word for Legislature) to impose and levy proportionable and reasonable assessments, rates, and taxes upon all the inhabitants of, persons resident and estates lying within, said commonwealth; and also to impose and levy reasonable duties and excises upon any produce, goods, wares, merchandizes, and commodities whatsoever, brought into, produced, manufactured, or being within the same.”

“The levies to be issued and disposed of by warrant under the hand of the governor of the commonwealth for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of said commonwealth, and the protection and preservation of the citizens thereof, according to such acts as are or shall be in force.”

“While the public charges of government or any part thereof shall be assessed on polls and estates in the manner that has hitherto been practiced; in order that such assessment shall be made with equality, there shall be a valuation of the estates within the commonwealth taken anew every ten years at the least, and as much oftener as the General Court may order.”

“Towns, parishes, precincts, and other bodies-politic shall make suitable provision, at their own expense, for the institution of the public worship of God, and for the support and maintenance of public Protestant teachers of piety, religion, and morality in all cases, where such provision shall not be made voluntarily.”

“All moneys paid by the subject to the support of public worship, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination.”

These extracts are interesting in more respects, than we can now stop to discuss. We must restrict ourselves to questions bearing on the subject of taxation. And the query rose to our mind, as we copied these provisions, whether any and what

protection this Constitution provides to a citizen if the levies are not "*proportionable and reasonable*"? We could find none in the instrument itself, so we surmised, that the courts of justice would have the power to correct any wrong that might be found to exist. But we found it to be the rule of Massachusetts courts, that "where powers are given to legislatures, the propriety of their exercise, depends on legislative wisdom, discretion, and conscience; they are left to their judgment and their action, and *cannot* be controlled by the courts."

The judges added, as if determined to cut off all hope of relief from courts, these words: "Courts can enforce only those limitations, which the Constitution imposes, and not those implied restrictions, which resting on theory only, the people have been satisfied to leave to the judgment, patriotism, and sense of justice of their representatives; and, if this fail, the people in their sovereign capacity can correct the evil." It results, therefore, that because the taxing power in the Constitution of Massachusetts begins with the words: "Full power and authority," &c., that therefore a citizen of Massachusetts has no redress in a court of justice against any *legislative* abuse of the taxing power. An English court would go, in such cases, to the "*fundamental laws of society*" (see Blackstone, vol. i. p. 267) for its judicial authority, and would feel bound to observe "*the fundamental principles of law*" (see Blackstone, vol. i. p. 269). But a citizen of Massachusetts has no appeal from the law-making power, because the Constitution has not imposed an express limitation or inhibition. No abuse of the taxing power can therefore be reached by courts, if the power to tax is once given; since there is no express formal prohibition of the particular outrage, which some adroit trickster may afterwards invent. What an immense responsibility this throws on constitution-makers! For the citizen is helpless as to all legislative wrongs, which they do not expressly prohibit!

The clause "for frequent valuations of the estates," affords a very meagre and costly protection against unfair valuations by administrative boards and officers. Nearly all the wiser governments have in our day abandoned real estate valuations and tax levies as the *sole* or even *chief* basis of public revenue, because it is so difficult to arrive at just valuations. In France, and other parts of Europe, real estate taxes constitute only about one-fourth of the whole public revenues.

The state of Massachusetts might have had as comprehensive and proportionate a system of taxation as Switzerland now has in some of its most wisely governed cantons. They there divide the burthens of government between taxes on the ground,

buildings, persons (*per capita*), trades, and incomes; and, for benefits conferred by public works, they have assessments. This subdivision and classification produces there a general equation, that makes each tax and assessment light to each class respectively. Thus they secure not only a fairness in each tax, but equity in the entire system. We admit, however, that Massachusetts started out right so far as it intrusted the *administration* of its taxation, valuations, and assessments to *executive* officers, and did not attempt to regulate it by constitutional or legislative details. It thus imparted to the finances of the state a consistency and consecutive policy, which is the distinguishing merit of that state above all its sisters.

It will have been noticed, however, that the language of the tax clause in the Massachusetts Constitution is: "given and granted;" which would indicate, that there were some *grantors* for the power, and that the state government of Massachusetts is the creature of some pre-existing authorities. And, on inquiry, we find, as explained so well by *De Tocqueville*, that, *in theory*, the state governments of Massachusetts and the New England states generally, rest on powers granted by the towns, and that they anteceded it. The New England constitutions were therefore originally federal, not civil law. Indeed, we now see, how John Adams could say in his inaugural, that "the United States Constitution was modelled after that of Massachusetts." The governments do not exist, according to this, in their own right, nor can they claim authority as self-incident to their existence; they are created and possess granted powers. But in practice, and especially as to taxation, this basis has been entirely lost sight of, and New England governments are really now civil governments, that take power, not as granted, but because necessary in the nature of things, and with a mental reservation that they are exercising *divine rule*. This is especially the case in regard to taxation; and long ago the state government of Massachusetts has enacted taxes, for which they have, ample as the tax clause is, really no special grants to show. In fact, the decision we have quoted shows, that in no state would the proposition to confine the government to *granted* authority, and to establish some independent tribunal as restraint or guardian of individual rights, be more promptly resisted, than in Massachusetts. It has always opposed such a rule of construction for the United States Constitution.

The New Englander is historically and, we may add, naturally the antipode of federalism. He may join a federal union and clothe it with, or restrict it to, federal authority; but soon he will convert it, if he can, into a civil government which takes

its origin from the gospel and its theocratic ideas; and whose authority is paramount for all the objects which may become the motive of the people or the state. And this is in nothing so apparent as in the clauses in which, as quoted, provision is made for the support of piety, religion, and morality.

These clauses speak of the clergy as "*public teachers*," but those, who drafted them had most likely no conception, that they expressed by these words the true relation of this class of public men, both as to the primeval past as well as the coming future. No clergy or priesthood has any right to exist, unless they do *teach* persons how to conduct themselves properly in social life. But when they do this, they are entitled to public support whether they instruct adults or youth. If the Constitution of Massachusetts had recognized no more than this, it would not now look to us like an anomaly; for then the public lecturer and the writers for the press could come in under the phrase, "*public teachers*." And in this wise the best possible enlightenment of the popular mind might be supplied. But the word "*public worship*" shows, that New England was still bound up in the perversion, which had gradually fastened itself on European society as to such a body of public instructors. New England did not want a Church priesthood, but yet a priesthood in essence, if not in name. The Catholic was excluded, but so was also the free-minded preacher or *real public teacher*. And thus it has occurred, that these clauses are about equidistant from a full advance towards that which is positively right, as from a full retreat from that which was positively false. Both orthodoxy as well as heterodoxy must condemn them, just as in the time of the Reformation neither the old nor the new churches would accept Charles V.'s rule, *Cujus regio, ejus religio*. What society wanted then, it still wanted in 1780, as it does in fact now, to wit: the teaching of the best knowledge and morality then worked out by the most intelligent and most virtuous of the respective society.

Maine, the fractious daughter of Massachusetts, followed in principle the same general policy when it made its Constitution in 1820. It also requires a re-valuation of estates every ten years, but drops the "*at least*" and the "*oftener*"—as well as the authority to do it: "*by order of the general court*." It tries to amend the clause by adding: "*All taxes upon real estate shall be apportioned and assessed equally according to the just value thereof*." Evidently the phrase "*just value*" is a slip of the pen; it meant: *just valuation*. But can we extend this excuse to the verbiage *equal assessments* and *apportionments*? Should not the word *just* have been used here? For



an assessment and apportionment may be equal and yet very unfair. For instance: Would it be right to assess the expenses of the state for public works by an equal sum for every acre? Or: Would it be right to assess all the expenses of a city per front foot? or *per capita*? The revolutionary cry: "No taxation without representation," was next remembered; so they inserted the clause: "No tax or duty shall be imposed without the consent of the people or their representatives in the legislature." Was such a clause necessary in any American state? Could any tax or duty have been imposed by anybody without a law? It was necessary in England to make such a rule as against the king and the Church, but no necessity for such a clause has ever existed in free America. It is, however, objectionable for another reason. Its negations amount to the affirmative proposition, that all taxes consented to by the people or enacted by the legislature are constitutional; a concession which no good jurist or political scientist will make. They recognize, that legislation embodies the unity of all singular wills, but they say, that there must be some authority to see to it, that a special interest or partial will does not arrogate to itself the garb of law, and thus cover its injustice. This authority, they say, must be the executive head of the nation or state by his veto power and his being the Executive. And moreover do they contend, that as against grievances created by the legislatures or the instructions of executives, there should be redress through an independent judiciary or administrative court.

Though not bearing directly on the subject of this chapter, we must call attention to that clause in the Constitution of Maine, which stipulates, that the half of the wild lands, which Massachusetts has reserved to herself, for allowing the state to be independent, should not be taxed by Maine while the title remained in that commonwealth. Massachusetts should have been as sound on the principle of states-rights as the king of Great Britain was to the United States, and have claimed no such reservations in another state. It paid but \$5334 for the whole state of Maine, and had, as land-owners, been fully, yea tenfold, reimbursed. Moreover, it was unwise on the part of Maine to concede this reserve, because Massachusetts might under it sell merely the right to cut timber, and retain the title for ever, a dualism of sovereignty over the soil, no wise state will admit. Had the state of Maine agreed to pay over half the proceeds of its land sales under a fixed price and the clause would have been better. Penn's heirs enjoy incomes to-day in Pennsylvania from a similar reservation as that which is in the

Constitution of Maine through Jay's treaty, a most unwise as well as unconstitutional act of our federal government.

New Hampshire followed Massachusetts generally as to taxes in her Constitution of 1792; but the power to levy *excises* and *duties* was omitted. This arose, as we suppose, from the fact, that in the meantime the Government of the United States had been established and had these identical tax powers. It was therefore deemed illegal for a state to exercise the same power. This idea was sound enough as a general principle, but it was unsound, if it conceded the rule of construction, that the states have all taxing powers not specially prohibited in the United States Constitution. What should have been done, was, to give the federal government specific, but sovereign and exclusive tax powers, and thus avoid conflicts in jurisdiction. The unity of sovereignty is not violated, when the powers of government are parcelled out to the different authorities that are united under one federal Union; but it is perplexing, when two public authorities exercise powers of sovereignty upon the same identical subject. This point is well guarded in the United States Constitution as to duties on imports and exports, but not as to excises and taxes generally.

New Hampshire requires a re-valuation of real estate every *five* years, but neglected, like all the rest of the states, to make provision for a permanent "*cataster*" or duplicate, and its annual revision and correction by independent authorities.

The clauses for *teaching* morality and piety are like those of Massachusetts, except that they want it done on *evangelical* principles, whatever that may be; and the support of "*teachers*" is directed as a sovereign (?) act of the people of the state.

The Constitution of Vermont, being the conscious and successful assertion of the right of local independence and self-government as against another American state (New York), is a great improvement on the other New England constitutions. It tries to give the reason and basis of all taxation in Art. I., sect. 9:

"Every member of society hath a right to be protected in the enjoyment of life, liberty, and property, and therefore is bound to contribute his proportion towards the expense of that protection."

His proportion? Aye! But the Constitution does not say, how it is to be measured. Shall it be *per capita*, the same as the elective franchise? or by wealth? or by rents or profits or earnings? or, better still, by all in due proportion?

The framers were also particular in trying to find a true standard for the *objects* of taxation; they say:—

“Previous to any law being made to raise a tax, the purpose for which it is to be raised ought to appear evident to the legislature to be of more service to the community, than the money would be if not collected.” The provision is unique of its kind, and has a wise look towards economy and justice.

But it went further, and provides (wise alone among all the states) in Art. II., sect. 43, for a council of *censors*, who are to inquire “whether the public taxes have been justly laid and collected in all parts of the commonwealth; and in what manner the public moneys have been disposed of.” This council has power “to pass public censures, to order impeachments, and to recommend to the legislature the repeal of laws.” The council is elected annually, which we hardly know whether to call a defect or a merit. It should have been a permanent court with judges for life, so as to be a real improvement on the old *courts-lect* in England. Then it would be like the administrative courts of Germany, that have jurisdiction in all matters pertaining to the conduct of public officers. And this would have filled a void left in all other American constitutions.

The old Constitution of Rhode Island of 1742, written in Roger Williams’s spirit, denies the power of the state to “compel any man to support any religious worship, place, or ministry whatever,” it prohibits “unreasonable searches or seizures,” and declares that “private property shall not be taken for public uses, without just compensation.” It had a taxpayer’s qualification for voting. It also provides for a registry tax of one dollar, “but no compulsory process shall issue for the collection of this tax,” and it remits the tax for military and marine duty. The framers of these clauses were evidently political cowards; they believed in taxing, but were afraid of certain voters (the militia and the mariners). A *per capita* tax should not be levied as a recompense for the right to vote; no more than for working on the roads, or doing military duty. All these are discharges of public duties; and should not subject to, nor relieve the citizen of, another public charge. The *per capita* tax should be levied for all objects that confer obvious *personal* benefits on all.

The Constitution provides for new valuations of property, and for the assessment of taxes. We presume private property (money) has been taken in Rhode Island, as in other states, by unfair taxes year after year, and therefore without *just* compensation; for the Constitution is silent about any and all guarantees against such arbitrary taxation.

Connecticut has not, in so many words, either prohibitory or affirmative tax clauses in her Constitution (1818). She has a

state treasurer, however, but whether the treasury is in his pockets or in any particular locality (a much-overlooked point) is not stated. *Paying* a state-tax is pre-requisite to being a voter. Every Christian society or denomination has the right to levy a tax on its members, but only on *them*, and for building or repairing houses of public worship, and for supporting "ministers." Any person may stop any "future" charge against himself by withdrawing from the society. Connecticut has a school-fund out of the sales of land in Ohio; and this is the only instance on record, where a state draws permanent income from funds collected from immigrants; for the money paid for public lands is a tax on the immigrating purchaser.

What surprises in this and all New England constitutions is the absence of any provisions for a system of public improvements; they evidently cared more for roadways to heaven than for highways on earth. Nor is the general organic frame of society into townships, counties, cities, &c., set forth, and we know of no reason for these omissions, except that given by De Tocqueville, that the municipalities were self and pre-existing, and that they attended to their local public business by that self-government, which is the glory of England, and which France misses so sadly. We presume also, that the power to tax was held to be inherent in the town, subject only to its being levied for reasons of state and recognized by law. It would thus be as manifold and as varied as experience and social and political science shall teach. In other words: it meant, that taxation should be rightfully imposed and constantly corrected and perfected.

The Constitution of New York (1846) bears evidence of there having been many bitter experiences, which the state wished not to make over again. It wants the public faith preserved, and to do it *perfectly* provides for *equitable* (a better word than equal) taxation in addition to funds set apart for this object. But while it protects the *state* against excessive state-debts, it guards society very little against municipal debts. And all the mischief sought to be prevented, by the state clause, has now, as the demoralization of all public administrations that are not improved, broken out tenfold in the larger cities. A very fatal innovation were the clauses, which legalized, by popular votes, public acts, which evidently the draftsmen of the provisions believed to be wrong in themselves. They expected, doubtlessly, that the people would reject all propositions for new debts, which was a fatal delusion. Instead of turning the key entirely round on pernicious public conduct, as they should have done, they really opened the door for acts in counties, cities, and townships,



which the legislature would not have dared to pass, if the subsequent popular vote had not furnished the excuse. The provision, that a tax shall be levied so as to pay the respective debts within eighteen years, is no safeguard, but rather an incentive to the voters who vote taxes on others, but pay none themselves. They would certainly say to themselves: In this way *we* get the benefit certain, and neither ourselves nor our children pay anything for it. It is the completest evasion of the old honest Scotch tax rule: Bearing Lot—paying Scot.

Art. VIII., sect. 9 (unfortunately largely copied by Ohio and other states), is a complete Pandora's box of mischief. It reads: "It shall be the duty of the legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debts by such municipal corporations." Under this section courts have presumed, that there are in such municipalities inherent powers to tax their citizens, to assess them, and to contract debts; and that courts will not interfere, unless an abuse of these powers is shown, and not even then, if the Constitution has not declared the very act complained of an abuse. It has also been held, that taking powers, admitted to be municipal, from the regular authorities of cities and villages, and conferring them on special boards or on trustees, comes within the authority of the legislature to organize these municipal bodies. In other words, that the legislature can assign these functions to special officers or agents for life, or to boards in perpetuity, which are no part of the city government, and that it may give them the power to tax, to incur debts, &c. We fear, that declaring cities bankrupt and appointing receivers for all their concerns, comes within this judicial construction of the above-quoted clause.

The provisions prescribing how votes on imposing, continuing, and reviving a tax shall be taken, and that there shall be absolute majorities, or other parliamentary restrictions, had evidently been necessitated by previous bad legislative practices. We may be glad that they exist, but they fall far short of the real protection necessary against foul taxation. It has in fact been doubted, whether they apply, even by parity of reasoning, to municipal bodies where they are just as necessary. Why was not the dangerous character of these ideas of legislation inquired into? New York has no tax qualification for the enjoyment of the elective franchise; it had in the Constitution a property tax qualification for colored folks; but it is no longer in operation since the fifteenth amendment to the United States

Constitution. It is not for us, as we admit the principle, to quarrel with amendments of state constitutions by amendments to that of the United States. New York has had great vicissitudes in her finances; and she has done much, both by constitutions and laws, to secure her inhabitants against spoliation by legislative bodies, city councils, and public officers; but it is still a shame to her, that with the fine mercantile capabilities, which she might have in her public service, and their enlightened free commercial spirit, which she might have in her laws, she has not yet arrived at any fair general system of taxation, and that her public works and other property represent wealth improperly taken from its citizens. Her largest city is even now on the verge of commercial decline from fiscal mismanagement.

New Jersey is as reticent on tax provisions as Connecticut, and the reason of it is, that she collected formerly a head-tax on persons travelling through the state. Now taxes are levied without constitutional restraint, by legislative enactments alone. Its Constitution contains similar provisions to New York on the subject of debts, but the people are a little more conservative than those of New York, and there is less danger in popular votes.

It has also a provision much found in American constitutions, that of prescribing: that bills for raising revenue shall originate in the "House of Assembly;" and also its correlative clause, that "no money shall be drawn from the treasury but for appropriations made by law." Blackstone gives (vol. i. p. 169) the reasons, why the first rule was adopted for the British parliament, and we need but read them to see that they have no application whatsoever to America. As to the second rule, we can only say: the mischief that needs prohibition here, is the practice of authorizing expenditures of public moneys by appropriation bills without there being previous sanction of the object by a regular law. An appropriation bill is but a supervisory act over a *Budget*, and it should not be mistaken for law-making. Why should not a legislator who votes money out of the treasury, without pre-existing law, be as responsible and as liable to punishment, as an executive officer is, who takes or pays out money unlawfully?

The people of Pennsylvania took the phrase: "No taxation without representation," to heart (their way of doing things). They provided in their Constitution of 1838 for "counting every seven years the taxable inhabitants of the state," and then they determined that there should be not over one hundred nor less than sixty representatives by this count, and appor-

tioned them to the respective counties. This is basing representation on taxation,—not taxation on representation. Moreover, the counting of the *taxable* inhabitants may not be the counting of the actual *tax-payers* at all; and in fact, as things turned out, the tax-payer is very inadequately represented in the legislature. What was wanting was the recognition of the right of individual self-protection, first, by being a political force in proportion to the contributions, that were exacted, and next through appeals to an administrative court. The consequence was, that the state lost the vigilance which interest alone efficiently gives, and hence came exorbitant taxation, and partisan gerrymanders (political apportionments of representatives). The clause requiring: “the legislature to provide as soon as conveniently may be, by law, for the establishment of schools in such manner, that the poor may be taught gratis,” shows kindness of heart, but not practical common sense. In America there are no “poor” that ought to want their children to be taught gratis; so the clause worked to teach youth gratis, whose parents ought to have paid. And the only children, who answered the designation, were those, who had to be gathered into reform and ragged schools. And it may look like the irony of fate, that the first of these were erected in Philadelphia.

The Constitutions of Delaware and Maryland contain nothing worthy of special mention in reference to taxation. Virginia, so zealous on tax questions, in the revolutionary period, is remarkably careless about them in her own old Constitution. The former zeal breaks out only in the clause: that “the legislature shall not prescribe any religious test whatever, nor pass any law requiring or authorizing any religious society, or the people of any district within this commonwealth, to levy on themselves or others any tax for the erection or repair of any house for public worship, or for the support of any church or ministry; but it shall be left free to every person to select his religious instructor, and make for his support such private contract as he shall please.” Virginia had originally, by royal charter, as will be remembered, a regular parish church organization, patterned after the English Episcopal Church; but sloughed it off and now returned at one bound to the primitive conditions of the early Christians—a ministry without fixed support. It reacted against royal improvisation, and its wrongs; but it failed to bring, out of disorder and lawlessness, any sound positive law.

The old Constitution of North Carolina is firmer on the subject of property and tax qualification for voters, than the others just named. The latter had allowed young men, just coming of

age, to vote, whether they paid taxes or not, and had also other exceptions; but North Carolina squarely plants her foot down, that the taxes shall not only be levied, but *paid*, before an elector shall vote. It prohibits him also from voting in any other place than in that of his residence; but does not, like the Ordinance of 1787, give any guarantee against arbitrary local taxation on non-residents. So at last it has taxation without representation. We see in this the spirit of opposition to English non-resident proprietors, the wrong of the original royal grant against which the colony had early revolted. The same feeling sticks out in the clause securing religious freedom; it is as tough, as that of Virginia, though in other words; for it adds significantly: "provided that nothing herein contained shall be construed to exempt preachers of treasonable and seditious discourses from legal trial and punishment." We see the figure of *John Brown*, casting, as a coming event, its shadow before. The Constitution provides for a capitation tax on all free males over the age of twenty-one years, and all slaves over the age of twelve and under fifty years; but it allows "exemptions of taxable polls as heretofore prescribed by law in cases of bodily infirmity." The reader will remember in this connection the debate on the Articles of Confederation, and the position John Adams took as to the basis of representation. It is carried out here.

South Carolina, precise as she always was, fixed in her old Constitution the minimum of tax to be paid, before the elective franchise is exercised, at *three shillings sterling*, and requires a receipt from the tax-collector to be produced. It has the clause about the origination of bills for raising revenue in the House of Representatives, and also the one about moneys to be drawn from the public treasury, in the words: "but by the legislative authority of the state;" a modification of the phrase that approaches the true idea; but still containing the indefinite conceptions as between executive and legislative functions, which will be found more fully explained, than can be done here in our "Treatise on Politics as a Science," in the chapters under this heading. The Constitution was amended in 1808, and a *double* basis of representation was established, to wit: "the number of white inhabitants, and then the amount of *all* taxes raised by the legislature." The number of representatives was fixed at 124, and the apportionments to be made every ten years. We regard this amendment as a sort of dawn upon the subject of taxation and representation. It is indeed a feeble forward step, for it recognized the conception, that simplicity and uniformity are often injustice and invidious.



The time will come when America will understand, that there are many other things, that need distinctive representation, besides the mere heads of tax-payers.

A stray provision in this Constitution is sect. 44: "The *declaration of rights* is hereby declared to be part of the Constitution of this state, and ought never to be violated on any pretence whatsoever."

How could a compact made between the British Parliament and William of Orange (1688) fit into an American Constitution made in 1776? It was certainly an unintended recognition of the title of the British Crown to North Carolina.

Georgia, that was and is so chary of powers for the federal government, gives, in her Constitution of 1798, full powers to the legislature. It says (Art. I., sect. 22): "The General Assembly shall have power to make all laws and ordinances which they shall deem necessary and proper for the good of the state, which shall not be repugnant to this Constitution." The negatives become of the most consequence in such an instrument; and we must say, that a state is much safer, when there is no written Constitution at all, than with one containing such sections. Whatever the framers of the Constitution forgot to inhibit, becomes lawful. And even the inhibitions are good only so far as they go; whenever a new way is found to renew an old wrong, they do not prevent this new form. The state is bound, the sharper not.

Georgia classes, very justly, with public defaulters, persons, whose taxes are due and unpaid, and denies them seats in the legislature. The voters get the benefit of a clause, that he must have had an opportunity to pay. This is a faint revival of the old fundamental idea as to the kind of persons, that should be a country's legislators. The old Italians required them to be: *buoni Uomini*; the English said: "they shall be men of good repute;" Georgia and several Constitutions since, declare public defaulters of all kinds unfit to sit in the General Assembly. Let us be thankful for so much return to a sound idea.

By 1820 the public mind began to see the worthlessness of the safeguards, which had been inserted in the Constitutions of the original thirteen states, and now we find Florida taking a new step forward, and providing in her Constitution, that: "no greater amount of tax or revenue shall be levied, than may be required for the necessary expenses of government;" and "that a regular statement of the receipts and expenditures of all the public moneys shall be published annually." The tax qualifications of voters having in their general application proved use-

less, now disappear, and residence beside being of age, qualify for the elective franchise. Struggles to remove all *exceptional* or *exemptional* taxation, especially when it favors corporations, assume great importance; for the people begin to feel the want of relief from excessive charges made by social administration or corporations for profit; but confine themselves as yet merely to efforts to bring *all* into their range. At the same time various pretences are put forth for exemption, which have the sympathy of the masses of voters, such, for instances, as churches, schools, charities, burying grounds, and that nondescript thing, *the poor*. It was the era of insatiability and vociferousness for *voting rights*, and deafness and dumbness as to *tax-paying duties*. Wealth was to bear all the burthens of the state and its municipalities. Capitation, as well as taxes on trades and occupations, were tabooed; and it run on, until taxes on property reached the lower rates of interest paid in Europe, and not unfrequently they reached five per cent., so that imperceptibly the owners of property became again a sort of feudal tenant, the lord and master being now the multitude.

Alabama, that made its Constitution in 1819, still lingered in the aversion to any union of church and state; it forbade even the taxation by *tithes* for building or repairing any place of worship, or the maintenance of any "minister or ministry." The clause, that "emigration shall not be prohibited," found in a few older European Constitutions, now becomes a standing clause in the newer southern Constitutions, so that one way may be left open to citizens seeking unjust taxation, that of going westward, which mostly meant no taxation at all. Political power for *all*, as levers for *party ends*, absorb more and more a great deal of attention. Security against wrong taxation receives very little. The thought rises to our minds, how a free and intelligent people could be so anxious to have power of offence and defence against their party opponents, and yet be so careless not to frame a government in which all such forces could be dispensed with. As things worked, it kept the minority-half busy, to prevent the majority-half from ruining society.

Mississippi, the state that men have ever sought for purposes of spoliation, when it revised its Constitution in 1832, besides the clauses already adverted to in other Constitutions, struck out for a barrier to arbitrary uses of the public moneys, so it said: "No money from the treasurer shall be appropriated to objects of internal improvements, unless a bill for that purpose be approved by two-thirds of both branches of the legislature." Defective as the wording of this clause is, it shows an awakening of the public mind. The true way would have been to

provide for a system of public improvements to be paid part by assessments and part by taxes, the latter again subdivided into township, county, and state contributions.

Louisiana, by the Constitution of 1845, having French as well as English and German elements in the formation of its public will, attained a higher stand on the subject of taxation, than any other state; it provided:—

“Taxation shall be equal and uniform throughout the state. After the year 1848, all property on which taxes are levied in this state shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property shall be taxed higher than another species of property, of the equal value, on which taxes shall be levied; the legislature shall have power to levy an income tax, and to tax all persons pursuing any occupation, trade, or profession.”

Whoever drafted this provision, grasped after comprehensiveness on the subject of taxation; but he did not fully succeed. What escaped him was the proportionate relation, which the several kinds of taxes bear to each other respectively. The taxes on real estate should never amount to more than one-fourth of the total taxation of a state and its municipalities; excises about another fourth; taxes on trades, licenses, duties, another fourth; and the remainder to be divided between an income and capitation tax. Taxes must be supplemental to each other; for thus they help to equate the unfairness and inequalities, that are inevitable in the execution and administration of any one of them alone.

The late history of Louisiana is a sad commentary on the effectiveness of constitutional provisions in guarding a people against abuses of the taxing power. With, by far, the best-drawn tax clauses in her fundamental laws; that state has now become the most tax-ridden state in the Union. And we need not be told, that it was done by Negro rule; but must say: that the new voters and their government but followed and intensified bad precedents given them by the old governments, that were in the hands of the Whites. They consisted chiefly in an excessive use of public credit for speculative public improvements; and in vast schemes, that gave opportunities for public plunder.

In Tennessee (revised Constitution of 1835) there seems to have been an inkling, that taxation and the clauses about taking property for public uses had something to do with each other, so they worded this clause different from the usual verbiage, and say: “No man’s particular services shall be demanded, or property taken or applied to public use, without

the consent of his representatives or without just compensation being made therefor." Had the words taxes, fees, and excises been there, and a clause been added, that they shall be imposed and collected only for benefits done to an individual in fair rates and proportions, and that courts of justice shall be open for redress against all tax injustice, and it would have been vastly improved. The constitutional Convention sought to do the same thing by Art. XI., sect. 28: "All lands liable to taxation held by deed, grant, or entree, town-lots, bank-stock, slaves between the ages of twelve and fifty years, and such other property as the legislature may from time to time deem expedient, shall be taxable. All property shall be taxed according to its value; that value to be ascertained in such manner as the legislature shall direct, so that the same shall be equal and uniform throughout the state. No one species of property from which a tax may be collected, shall be taxed higher than any other species of property of equal value. But the legislature shall have power to tax merchants, pedlars, and privileges in such manner as they may, from time to time, direct. A tax on white polls shall be laid in such manner and of such amount, as may be prescribed by law."

It is plain that this section is a make-up of several propositions by different persons, who had the Louisiana Constitution in their eye. Out of it a much completer section could be drawn in fewer words by an expert on the subject. Still it enables a legislature, even as it is, to enact a very fair system of taxation: provided the people are willing.

Tennessee did, what all other states neglected, it makes (see sect. 29) the state legislature the constitutional source of all taxes, even those of the local municipalities, and subjects them to "the principles established in regard to state taxation." The reader will at once recognize the beneficiality of this rule of action, for it carries the financial and fiscal progress made in state affairs, to the counties, cities, and towns. It is the same rule, in effect, as that adopted in *Magna Charta*, to wit: that all advantages claimed and yielded to the nobles by the king, should also be granted by them to their tenants. Had New York, Ohio, &c., inserted such a clause into their Constitutions and a vast amount of tax and debt corruption would never have seen the light of day. Queer is the provision in the Constitution of Tennessee, that all freemen of color shall be exempt from military "duty in time of peace, and also from paying a poll-tax." The clause is, we suppose, now obsolete; and we leave to the reader the luxury of diving into the motives, that entered into this provision.



Tennessee has performed for the South and South-West what Ohio has done for the North and North-West, viz: being the pioneer of modifications in institutions, or—if the reader likes the figure of speech better—a sort of bridge respectively on which eastern politics were westernized and subjected to American experiences and necessities. The changes were often crude, like all new political formations.

Such a new path was taken in Tennessee in Art. XI., sect. 9. It says: "A well-regulated system of internal improvement is calculated to develop the resources of the state, and to promote the happiness and prosperity of her citizens; therefore it ought to be encouraged by the General Assembly." Here is a very correct idea, almost lost again by a very incorrect expression. The General Assembly is to encourage, as if that body had some fund outside of taxation, or its authority to assess. How different would the section have stood if the closing words had been: therefore the General Assembly shall enact such a system, and provide such methods of taxation and assessments; so that the means necessary for the same shall be properly apportioned between state, county, city, and township public contributions from their respective treasuries, and by assessments on the individual beneficiaries, according as their lands, business, occupations, or chattels may be benefited. And if such taxation and assessments were distributed over lengthy periods of payment, not to exceed ten years; by the use of the public credit respectively, it would hardly ever work hardships. It is known, how Tennessee went into a system of encouraging railroads by loaning to companies \$10,000 per mile of the state credit, and how it has ended either in repudiation or forced sales. It finished, as all unfairly apportioned public duties do, in efforts to unload them; for there always comes in such cases, the last ounce, that breaks the camel's back. Why will politicians never understand, that society can bear twice as large a fairly distributed load, than she can one illy distributed?

Another such crudity is Art. II., sect. 30, in these words: "No article manufactured of the produce of this state shall be taxed otherwise, than to pay inspection fees."

We do not know whether, under this provision, Tennessee has ever attempted the old fiscal trick to tax and raise revenue under cover of fees, but that it was open to such a construction none will deny. Perhaps it would be a strained construction of the section to say, that it meant that articles manufactured in other states out of Tennessee—iron, or coal, or cotton, or corn—could be re-sold in Tennessee without being subject to a property tax or excise therein, but it certainly forbids an excise on

whisky, or flour, or castings, or cotton goods manufactured in the state, in whole or in part, from materials raised or produced in the state. And even in this restricted sense it contained a false principle, because it bound the hands of the legislature from enacting, what might be an indispensable fiscal necessity towards any comprehensive readjustment of her tax levies and excises.

We may pass by the Constitution of Kentucky, because it contains nothing worthy of notice, it being but a copy of provisions in other Constitutions. That state has ever initiated political rules and institutions, without really appreciating them, and *feeling* has there ever taken the lead of *judgment*. It is ever so with peoples who feel confident in their physical capacities, rather than in their mental faculties. They may have great personal bravery, splendid eloquence, and bubbling genius, but statesmanship and polity, that works patiently, diligently, and wisely, is not apt to be developed among them. Hence we turn our attention to Ohio, whose Constitution of 1852 exhibits several new traits, that have important bearings on the subject of this chapter.

We do this the more readily, because this Constitution has been modelled after, in these respects, by nearly all the newer states, and its discussion will therefore enable us to dispense with a special mention of a dozen and more of the newer Constitutions. But we must be allowed to premise, with a view to preventing misunderstanding, that we do not say this as a boast;—no! having been one of its framers, we enter on the critical examination of this instrument with a keen sense of our share of the responsibility for its many shortcomings and defects, and fully conscious of them.

Sect. 2 of Art. XII. of the present Constitution of Ohio was first written as follows: "Taxes shall be levied by uniform rule on all property, both real and personal, according to its true value in money." When it finally passed the Convention, it read as follows:—

"Laws shall be passed taxing by uniform rule, all moneys, credits, investments in bonds, stocks, joint-stock companies, or otherwise, and also all real and personal property according to its true value in money; but burying-grounds, public school-houses, houses used exclusively for public worship, institutions of purely public charity, public property used exclusively for any public purpose, and personal property to an amount not exceeding in value two hundred dollars for each individual, may by general laws be exempted from taxation: but all such laws shall be subject to alteration or repeal, and the value of

all property so exempted, shall from time to time be ascertained and published as may be directed by law."

While the original draft left play-room, after asserting a general principle, the section as adopted tied everything in a knot, that was difficult to unravel. The exemptions destroyed the original equity.

But, not satisfied with this knot, they added another in sect. 3, by requiring the "taxing of the notes and bills discounted or purchased, moneys loaned, and all other property, effects, or dues of every description (without deduction) of all banks, now existing or hereafter created, and of all bankers, so that all property employed in banking shall always bear a burthen of taxation equal to that imposed on the property of individuals." And this provision, intended to make a certain kind of taxation a fixity on banks and bankers, reacted, contrary to the wishes of the authors, on the preceding section, and forced a narrow construction, that has embarrassed the state ever since. The two sections together now read as if none but *property* taxes were legal in Ohio, which was really not intended.

Sect. 4, guarding against *deficits* in revenue, should have had added the words of the Constitution of Florida, already quoted, against *surpluses*; for the latter barbarism has been much in vogue in Ohio and other states. They have produced numerous defalcations.

In this sect. 4, there is a good provision against deficits in revenue, and they have since occurred but seldom; but as there were no safeguards against surpluses, the opposite financial barbarism has troubled Ohio seriously. Nearly all the respective treasurers used these surpluses clandestinely, and large defalcations grew out of these practices; the state alone losing \$750,000. Is it not a humbling fact, that a young state like Ohio, now three-quarters of a century old, and with the experience of all the historic ages before it, has never had one hour of sound financial policy, as a state, or in its municipalities?

How tenacious, on the one hand, people can be of rules, that are really obsolete, and how neglectful, on the other hand, they are of providing against the actual dangers of the government they are creating, we may see in the following clause of the Constitution of Ohio: "No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied." By reading in Blackstone the historic and judicial reasons for taxation in England (vol. i. pp. 169, 308, 328, and 333, also vol. iv. pp. 426-429) we see, why such a clause was a safeguard

in government that had a king, a House of Lords, a House of Commons, social classes clothed with political power, and feudal tenures ; but we cannot fail to learn also, how inapplicable it is to a civil government like that of an American state, that has a governor, a senate, and a house all elected by the same constituents, one that levies all taxes on property, by one duplicate and one law. All taxes are paid from the same pockets, and collected into *one* treasury system. Evidently the American mind is still only in a state of semi-awakening to the fact, that its governments are no longer royal or aristocratic, but republican ; and that all clauses, like the above, are surplusage in our constitutions, evidencing nothing but confusion of mind, such as exists, where the mischiefs of the past still oppress the memories of folks, and will not let them see their own real condition. Hence we persevere (*with* Blackstone) in confounding the words : "taxes" and "assessments," and continue to have special funds and special sources for them in our bookkeepings, as well as fiscal arrangements, with general surpluses and special deficits, while all the time there are only general taxes and common treasuries. We complicate our simplified new ways with old complications, increase fiscal expenses, and breed confusion upon confusion. All that was wanted, was a provision, that the finances of the state, the counties, townships, cities, and the towns, should be kept separate, and that moneys collected by assessments for benefits conferred, by special public undertakings, should be applied only to these objects. As things went, we have really no state unity in finance, nor separate and distinct fiscal administrations for our municipalities. We have all piled into one duplicate, and only a separation—by fiction—in the books. We have actually no executive or legislative budget, no legitimate legislative appropriations, nor any sound legislative supervision. And worse than all, no-where any proper control by a special independent judiciary.

Ohio also copied, into her Constitution of 1852, the New York clause about municipal taxation and debts, which we have already criticized, and it had the same effect here as there ; only in Ohio the judiciary was even more inclined to error than in New York, as may be seen in its decisions on the Southern Railroad and the Boesel law. The clause worked as an enlargement of false propensities, when it was intended to diminish them, and the municipalities were disorganized instead of organized. Every year brought new experimenting through legislative improvisations of special boards, commissions, and trusteeships, and the whole public administration, being thus disjointed, was surcharged with extravagance, so that inefficiency



reigned in all its branches. The corruption that issued from this dreary waste of public power compelled at last attention and inquiry, and jurists were found, who held, that the main difficulty was in a want of understanding what was really municipal law in Ohio, and they believed, that collating the respective statutes would cure it. So they compiled, what they called the *Municipal Code*, and advertised themselves to posterity as men, who thought, that symmetry, unity, and comprehensiveness could be got by stringing together a lot of disjointed, multitudinous, and unintelligent legislation, and judicial flatulency. Posterity will marvel, how men, learned in the legal profession, could compose hundreds of sections on city government and produce only a conglomerate of errors.

Where, we would ask, if this shall be deemed an exaggerated statement, is the unity of responsibility so indispensable in public finances, first: as to the *total* levy of taxes proper at one time in the entire state; second: as to the proper apportionment to the several public requirements; third: that of seeing to the proper expenditure? A dozen public bodies levy the taxes, no one is responsible for the entirety. There is therefore no budget drawn by persons technically acquainted with all the details, nor is any such financial comprehensibility ever required of anybody, much less supervised by the chief of the State's financial department. An Act of Congress bearing date, May 10, 1800, expresses this object thus: "That it shall be the duty of the Secretary of the Treasury to digest, prepare, and lay before Congress, at the commencement of every session, a report upon the subject of finance, containing estimates of the public revenue and public expenditures, and plans for improving and increasing the revenues, from time to time, for the purpose of giving information to Congress in adopting modes of raising the money requisite to direct the public expenditures." This act, meagre as it is, and lurking as there may be therein a misconception as to the directing powers of Congress; yet it rests on one true conception: an *annual budget* prepared by the chief of the financial department. The Constitution and laws of Ohio and of other states have something like that as to *state* revenues and expenditures through state auditors; but none of them have extended this financial unity and supervision to the counties, cities, &c. *Their* finances are not embraced in state reports. All is at loose ends there, and confusion reigns where order is the first necessity. The writer drew as a member of the Board of Control of Hamilton county, and as examiner of its treasury, several bills for the correction of some of the more glaring evils, but they were either defeated by the lobbies of

county officers, or so altered as to take out of them all real reform. No general municipal control exists in any American state; these corporations have autonomy where they should be limited, and they are supervised where they should be free. And this state of things has produced that peculiar migration of the public rascals from government to government. Driven from the Union administrations, they shift to the states; expelled there, they gather into the cities and counties. What Francis Borgia said, of the Jesuits, is really true of these municipal cormorants, viz: "As lambs we slip into the offices, as wolves we rule; they expel us like dogs, but we return rejuvenated as eagles."

In former times the manufacture of party majorities in the legislatures, that were subservient to the ruling county cliques, was done by gerrymandering (arbitrary legislative apportionments); but a bolt to these was inserted into the Ohio Constitution, and since in several others, by providing so-called self-acting apportionments, by mathematical quotients and reckonings. But the county cliques were but scorched, not killed. They cannot self-perpetuate any *one* party, but they can and do coalesce for the continuance of municipal corruption and the safety of mean, city and county, officers. Of them is true the old proverb about *pigs*—

". . . Take one by the ear,  
And not one, but *all* will squeal."

Thus popular power is helpless as to party power. It was, however, weak from the first, after the rule was adopted, that political power should pass *per capita*, taxes be levied *ad valorem*. Some of our cleverest women, *Mary Clemmer*, for instance, have wandered off into the error, that the fact of a person's paying taxes is the reason for the enjoyment of the elective franchise. Would they have reflected but a moment on the counter-proposition, that whoever votes should also pay a tax, and they would have seen the utter falsity of the correlation of the ballot and taxation. They would certainly admit, that it is a safer public axiom to say: None shall vote, who do not pay a tax! than to say: *All* shall vote that pay a tax. Still unsafer is the rule found in so many American constitutions, including that of Ohio, both of 1852 as of 1802: that "the levying of taxes by the poll is grievous and oppressive. The General Assembly shall never levy a poll-tax for county and state purposes." The latter clause, had it stood alone, might have allowed a poll-tax for township and city purposes, where, indeed, so many of the benefits of government are personal; but, with the first half

added, it seems to preclude even that use of a *per capita* tax. When the writer hereof first came to Ohio he paid a head tax for city purposes, and did it cheerfully, though not a voter, nor a holder of property, and earning very small monthly wages; because he believed, with the French Constitution of 1763, that: "no inhabitant is exempt from the honorable obligation to contribute towards the public expenses." And every day has confirmed his impression, that it is dishonorable to live in republics and not to pay taxes.

We will not pursue our statements into the newer Constitutions; they contain only here and there improved provisions, as, for instance, the Texas rule, that requires two-thirds of both houses of the legislature to allow *exemptions* for property from taxation, which is certainly a forward step.

We might, however, have expected this meagreness of progress in our Constitutions, because, while the old Constitutions contained a part of the corrections made necessary by previous evils in Europe and here, our newer social and political condition never until now reached the climax, which brings those strong reactions, out of which grow the jurisprudential landmarks for future generations. The occasional attempts, pointed out by us, made to stem a current, that was feared, but not comprehended, did not amount to much, because their unreason was not analytically ascertained. Instead of curbing popular cupidities after public moneys, they were incessantly stimulated and intensified, and we, who now stand at the threshold of the reaction, and see the timid reaching forth for the true source of all mischief in America, to wit: *lawlessness covered by the mantle of popular sanction*, know but too well how hard it is now, and how impossible it would have been but ten years ago, to arrest the flood tide which then flowed into all the estuaries of false constitution and law making.

We think it is clearly apparent by this time, that contrary to what everybody took for granted, these states and their people are without any efficient guarantees against their own abuses of the taxing power. Yea worse, that we have the old wrongs, one and all, revived, but in more dangerous, because less curable, forms. A king dies, a people live for ever. With a king a policy and a tendency may end, when he is deceased or deposed. But when a democracy is once impregnated with errors, in the garb of plausibilities, it never stops from inflicting evils on society, unless some *force majeure*, in the person of a military genius, or in that of a religious reformer, produces an entire social reorganization. The histories of Athens, Rome, Jerusalem, Florence, Venice, and other cities attest this fact;

and those of New York and all our American cities are just on the eve of similar reconstructions.

All instinctively feel, but are actually afraid to look closely into our condition; and this enables a partisan press and our demagogues to hide from us their complete ascendancy over all the various ways and means, by which the substance of the industrious, the thrifty, and the saving are largely transferred into their pockets without adequate service or benefit to society. Not to be one of the rings (who are but the distributary agencies of public plunder) means in America: to be a *mere* tax-payer.

Had our refusal to adopt the party government of England been a politic act (one adopted from reason and reflection), and it would have made us drop the greater part of those passages on taxation, &c., now in our Constitution, which have only sense and meaning as negatives on established royal, aristocratical, and Church governments. But we thought ourselves above "Premiers" and such indirect semi-republicanism; we wanted full and direct democracies, governed by free voters, whose sense or nonsense, as expressed at the ballot-box, should be our government. Not administrations, having parliamentary majorities; but parliaments and executives, obeying popular majorities, became our authorities. What use, in such a government, of a rule that revenue laws shall first be introduced in the lower houses of the legislature? Why, indeed, prescribe any method or form of taxation? What other fate can constitutional restrictions have in such popular supremacies, than to be broken, because they are obstacles to the very fundamental idea of a government, that thinks itself right only, when it is doing the will of the people? Benjamin Franklin's reasons for but one House in the legislature had the same source. He opposed a Senate because it obstructed the carrying out of the will of the people, and the argument seems unanswerable, if it only were true, that the mass of voters not only always want what is right, but are sure to find it, and express it through the election of representatives. We know that this is simply a monstrous error.

Two facts prove, that our diagnosis of the situation is correct; first, that the worst results are in our municipal governments, the ones most under the eyes of the people, and least guarded by constitutional safeguards. Among them again, conditions are most desperate, because the authorities are solely guided by temporary public fancies and desires. And that these desires and fancies are immoral, we see in the degree to which public debts are indulged in. Twenty-five millions of debt for Cincinnati is equal to a debt of two hundred and fifty millions for Ohio, and two thousand five hundred millions for the federal



government. Mark! this amount of \$25,000,000 is additional to the state debt and the United States debt. The real cause of it all is, a public immorality, which after exhausting a similar public folly in the states, as far as a returning sense of right would let it go, threw itself upon another weak and undefended part—the municipalities. The United States had, by 1815, alarmed interests, that gradually grew into a public opinion against a further increase of the national debt; so had the states between 1840 and 1850; but after that came the era of municipal debts, where the separate small nominal amounts had a less alarming aspect. In them now rioted the immoral, because *there* was an unmeasured, unrestrained, and uneconomic public will, with its insatiable maw. And it seized upon the ballot-box as its engine of offence; and either by direct popular sanction, or indirect propositions, or by voting tools of its will into power, it magnified taxes or debts as it pleased to be minded. It had the old reason to give, which kings gave: "*Car-tel est notre plaisir.*" No wonder that our Constitutions are now mere pieces of paper, and that our tax laws are but legalized wrongs!

It may be interesting, by way of concluding this chapter and for comparison, to give the tax clauses of some of the French Constitutions; for they are the product of ideas prevalent in Europe and America about the time our earlier Constitutions were framed, and have the same origin, object, and scope.

The French Republican Constitution of June 24, 1793, says, in the Bill of Rights, clause 20: "No tax can be laid except for the common welfare. All citizens have the right to have a voice in the levying of taxes, to watch over the application of them, and to have an account rendered thereof."

And in clause 101 of the Constitution itself we find: "No citizen is excluded from the honorable obligation to contribute towards the public expenses."

102. The national treasury is the central point of the revenues and expenses of the republic.

103, 104, 105, and 106 provides for a head bureau of officers for the public accounts, to be elected by the legislative body, a board of comptrollers.

That of September 1795 (still republican) says, clause 16, Bill of Rights: "Every tax is laid for the general benefit; it must be distributed among the taxable persons, in proportion to their property."

Clause 115 names as causes for which *members of the legislative body* may be brought before the *high court of justice*, "the squandering of public moneys."

153 provides for the appointment of the receiver of direct taxes in each department by the directory; and 154 prescribes the appointment of the superior heads in the administration of indirect taxes by this executive authority.

205 says: "Justice is awarded without pay." (We would say fees.)

302. "The public taxes are every year considered and established by the legislative body. It belongs alone to the same to levy taxes; they cannot exist longer than a year unless they are expressly renewed by the same."

303. "The legislative body may introduce any kind of taxes, which it may deem necessary, but it must levy every year a tax on real and personal estate."

304 says: "Every individual not included in Art. XII. and XIII. of the Constitution (convicted criminals) and in the register of direct taxes, has the right to appear before the municipal administration of his commune and have himself enrolled for a personal tax, equal to the local value of three days' manual labor."

306. "The taxes of every description are distributed among all taxable persons in proportion to their property."

307. "The executive directory guides and watches over the raising and payment of taxes, and issues all necessary orders accordingly."

308, 309, and 310 relates to accounts, their publication and verification.

311 reads: "The departments, administrations, and municipalities can make no change regarding the sums determined upon by the legislative body, nor, without being empowered by the latter, negotiate or allow a local loan on the citizens of the departments, of the communes or cantons."

314. "The legislative body establishes the taxes of the colonies and their mercantile relations to the mother state."

315 to 325 provides for five commissioners of the national treasury, prescribes their duties, system of accounts, &c., "so as to insure the accurate and regular paying over of the moneys," &c.

It requires three steps to allow a payment from the treasury:—(1) a degree of the legislative body; (2) a degree of the directory; (3) the signature of the minister, who proposes the expense; and on every order must be the date of the degrees. "The departmental taxes are examined and approved at the national treasury, after certification from the commissioners of accounts."

"The last-named board must give to the legislative body information of all abuses, defalcations, and all cases of responsibility, and they may propose measures advantageous to the republic. The legislative body may suspend or remove the commissioners."

354 says: "No one can be forced to contribute towards the support of any religious service. The republic pays nothing towards it."

370. "No citizen can wholly or in part refuse compensation or a salary, which is assigned to him by law, by virtue of his office."

The Constitution of 1799—republican in name, really Napoleonic—requires, Art. XXV., that new laws must be "proposed by the government, communicated to the tribunate, and decreed by the legislative body," so that the initiation of all new taxes is with the Executive.

Art. XLV. says: "The government regulates the revenues and expenditures according to the provision of the law which establishes every year the amount of both."

By Art. LVI. "one of the ministers is specially charged with the administration of the public treasure; he secures the revenues, and regulates the raising of money and the payment approved by law." The three requisites of the Constitution of 1795, for a payment from the treasury, are also adopted in this. It provides for a commission of national accounts, for regulating and correcting all revenues and expenditures.

The Constitution (Charter) of 1814, provided by Louis XVIII., says:—

Art. XLVIII. "No taxes can be levied and raised unless they be assented to by both chambers and sanctioned by the king" (a sort of reciprocal check).

XLIX. "The tax on real estate can be granted only for one year. The indirect imposts may be granted for several years."

LXXI. "No grant of title and rank by the king can release from the burthens and duties of society."

XVII. "Laws regarding taxes must first be brought before the chamber of deputies."

We call the special attention of the reader to these several provisions. They are in some respects inferior in protecting the citizen against arbitrary taxation, but in others again, superior to those of our states. The verbiage has the same general characteristics; it is plain, however, that those who drafted them were much clearer in their views as to what they wished to abrogate and guard against as known evils, than they were as to measures whose evils lay in an unknown

future. The declaration that an obligation of honor rests on all citizens to be tax-payers, modern science would express in more definite terms, but it fully acknowledges the principle. An excellent idea is the prescription of central bureaus of accounts. The Germans have this in their "*Rechnungs höfe*." Making legislators responsible for "money squandered," is a sound provision. The attempt to make three days' labor a normal tax basis is worthy of careful consideration and closer elaboration. So is the placing into the hands of the executive authorities the collection of taxes and the power to issue decrees and orders, as well as instructions in relation thereto. The attempted abolition of judicial fees was found impracticable and unfair; but it should be revived in an amended form, by prohibiting *excessive* fees, and making cost of stationery and time the criterion. Their amount is often in England and America a denial of justice. The very word "*costs*" should revive the idea of the old rule or standard.

The provisions against local public debts is as weak as that of New York, but does not open as wide the door to constructive inherent powers. The clause against tax exemptions under cover of grants from the king, is a wise rule; it should be extended to all grants, charters, corporations, &c., including specially those from the legislature.

In closing this chapter we must mention the fact, that in all our researches we find taxation—antecedent to our age—to be (subjugations and war contributions excepted) the result of agreements and compacts, either in writing or by common law; while modern taxation is mostly based on the assumption of more or less arbitrary (sovereign) power. The only difference being, that in Europe it was a sovereign king and parliament, that levied the taxes, now it is a sovereign legislature and people. We cannot see then in our American Constitutions greater safeguards against arbitrary taxation, than in the old European institutions; on the contrary, society is less protected against government. And to this we must add the observation, that the few modern improvements in tax laws are not American inventions. This is specially true of our municipal taxation. As to it we have not only removed the circumvallations of the old cities, but we have built new causeways for popular sovereignty, so as to enable it to invade and plunder our municipalities in the garb of public benefactions.



## CHAPTER XVIII.

*PUBLIC CAREERS IN AMERICA.*

“Extremum Malorum tot fortissimi viri, proditoris opem invocantur.”—*Tacitus*.

SINCERE men no longer deny, that the offices of trust and profit are now filled, in the United States, with much more inferior men, than as compared with former periods; indeed, it is admitted, that if we want to find political conditions like unto ours, anywhere, we have to search in the records of the worst phases of public administration, which history affords. The quotation at the head of this chapter fits our case; for with us, good men have to invoke the co-operation of mean men to have a public career. And the roots of the evil grow from that pernicious assumption, that there is a universal qualification for office. Under it the whole public service has now become either a gratuitous or a false distribution of wealth. The greatest personal merit and talent must be abject to the respective party multitudes, to gain distinction;—the ethical sense, the only one that makes political rule safe, has been blunted. Good citizens have either to pass through a degrading ordeal of abuse and villification, or ward it off by subserviency; and the popular mind has been so drilled into the belief that killing great men by their votes is preserving liberty, that all efforts towards an efficient public service are looked upon as contumacy to legitimate popular power. And thus the commonwealth presents the paradox of the theory on the one side, that all men are qualified for every office, and the practice on the other, which treats all specially qualified men as dangerous if placed in power; and this, the more, the abler they are.

To show the loss America has sustained, because its public mind has been miseducated as to the reciprocal rights and duties between the body of society and its prominent public men, we think it well to place before the reader a table giving the time wasted in retiring too early by the best personages of America:—

Washington	was retired	$\frac{1}{4}$ th	of his adult life,	12	years.
Knox	"	$\frac{3}{4}$ d	"	12	"
Adams	"	$\frac{3}{4}$ d	"	24	"
Jefferson	"	$\frac{1}{4}$ th	"	16	"
Madison	"	$\frac{3}{4}$ d	"	18	"
Franklin	"	$\frac{1}{6}$ th	"	10	"
Monroe	"	$\frac{1}{10}$ th	"	17	"
Gallatin	"	$\frac{1}{4}$ th	"	15	"
Jackson	"	$\frac{1}{4}$ th	"	12	"
Van Buren	"	$\frac{1}{8}$ th	"	10	"

We might add to the list hundreds of the very best officers of the Revolution, dozens of diplomatists, many cabinet officers, senators, &c. Many of these were forced into an absence from public life, most galling to them, because they knew, that they had capacities, that ought to be employed in public affairs. Public conscience has sought to relieve itself of the odium that must always attach to a society, that fails to give honorable employment to proven talents and integrity, by our miserable pension systems; and by giving preferences to soldiers at elections and appointments, as if a vicious generosity could ever atone for the neglect of wise economic justice.

The logic, or rather illogic, of the thing rests on the false premise, that a people have any more justification for conferring or denying office from arbitrary reasons, than kings or nobles. From it has flown the decline in our civil service, which distresses us. But, we ask: Could, under this premise, things be otherwise? Had we based our government on the principle: that it is the bounden duty of *all* governments to place no one in a public position, who is not technically qualified by education and for his upright character; and we should now be, where France, Belgium, Switzerland, indeed all Europe except Russia and Turkey, are; that is, we would have a public service officered, with few exceptions, by qualified men. *Our* rule was the reverse of theirs, to wit: that the people are unfree as long as there is one officer not subject to arbitrary popular will. *Theirs* was, that society is unfree, as long as there is an officer subject to any arbitrary public will. And the result of this difference is: that while *we* have produced the servitude of the better elements of our society under those of the inferior forces, *they* have freed their society from the arbitrary rules of their several potentates. Hence whilst *they* have raised up a body of public men, who stand upright before power, and yet serve the public faithfully, we have nurtured a body of demagogues, who cringe to the voters before the election, and domineer over and defraud them afterwards. We have made them truckle to low men, and wonder that they are now mean themselves. But not alone that; we have so organized our parties, that the gate-

keepers to all the avenues for a public career are bad characters, who take toll of all candidates for office and spend what they get corruptly. Neither the highest intellect nor the greatest integrity can enter on a public career without submitting to both personal humiliation and pecuniary spoliation. And yet we are astonished to see our great and good men cheek by chowl with the little and the bad men of the land. And if anybody tells us, that this state of things is caused by popular folly and a perverted public spirit, we get angry at them and refuse to learn, that we cannot have good public administrations as long as we continue in our false public course.

The fact, that no man can have in the United States a successful career unless he joins forces with low mercenary partisans, and at the same time coincides with some raw and crude public opinion, is the galling servitude, which honesty, capacity, and intelligence has to undergo in the United States. How the revolutionary Fathers could initiate such a degradation of American talent and integrity, when one of their most reasonable complaints against England was, the neglect of native American ability and cleverness, is next to incomprehensible. They knew the abuses caused by *patronage* in the British service; had indeed felt it in many ways in the colonial public administrations; for they speak in the Declaration of Independence of "swarms of officers to harass our people and eat out their substance." They inveigh in the same document against "making judges dependent on the king's will alone, for the tenure of their offices, and the amount and payment of their salaries," and yet they erected a President with a patronage greater and more arbitrary than that of any king; and intrusted nearly the whole remaining public service to a popular will bound by no qualification. Their successors did even worse; they took from the regular authorities and political forces—we mean the Government of the whole people—the little tendency towards technically qualified officials, that still existed as an instinctive habit, and transferred nearly the whole civil service to the use of parties for the payment of political services. We can exempt but two men from this falsification and decomposition of public administration—Washington and Gallatin. With all the rest, there is only a difference in the degree of culpability in entailing upon the country a mutually corrupting system of suffrage and office-hunting. From it has sprung a body of public men, whose public life has all the vices of royal favoritism, of aristocratic patronage and clerical intrigue, but very seldom the virtue and honor of true public men. Our idol was a self-worship of a democracy, that, like all idol-worship, has been blind to the

realities of life. A worse bureaucracy than any that has ever disgraced Europe, has ensconced itself on the body-politic of America, and bids defiance to the people.

It may appear paradoxical to say: that, in effect, America committed the same political wrong, as to the public careers of its youth, which mediæval Europe did; but it is nevertheless true: for both discouraged personal talent and culture. The latter intensified social inequality; the former, social equality: the one did it by adding hereditary political power and emoluments to landed wealth; the other does it by adopting an equal *per capita* universal qualification for office. Neither placed primarily, and as a public policy, those in authority that were qualified; both had to do it secondarily and by force of circumstances. Most of the public offices were sinecures, and they were conferred by patronage on mere figure-heads; who again gave the subordinate positions to underlings, who were often the superior men. Thence came in England what Shakespeare calls "the proud man's contumely, and the insolence in office;" and in America what Emerson speaks of as "injustice to the accomplished man." The patron there became haughty; here he grew into a partisan sneak. There he domineered; here he intrigued for the next election. In neither could there be an efficient public service, as long as this state of things continued. Continental Europe reformed itself early through her universities and training schools, as well as by proper discipline in and promotion to office according to merit. England alone has lagged behind, and America is stuck fast in the old abominable practice. She still refuses to see, that opening careers to all, without reference to qualifications, shuts out the qualified, and thereby deteriorates the public service. She still thinks, that she does not need trained capacities in her civil offices; in other words, that she can govern without becoming organic. She still apprehends oppression from the very organisms that alone can bring liberty, and she looks for freedom to the very demagogues that are producing tyranny. Ever grasping power for what it thinks to be democracy, she is still ineffably weak in the hands of sharpers, that flatter, while they steal.

No greater mistake can be made than to take—*no* government—for *self*-government. Yet that was and is the very thing attempted in America! Our government consists of office-hunting, subject to party trickery. And this we take to be self-government! We have carried this word from England; but lost in all America (except New England) its real meaning. That section of the Union still keeps up its annual town meeting, with its free discussions, and the local



administrations of its own affairs. We have lying before us, as we write, the proceedings of such a meeting in Waltham, Massachusetts, held March 19, 1877, in which the public business is discussed and voted on; such as the number of constables, the annual appropriations or budget amounting to some \$135,000; the pay of police-officers, and the erection of a public bath-house. In all the rest of the Union there are no such town meetings; their place is supplied by so-called spring elections, at which national party tickets are voted; but the local public affairs are entirely overlooked. When we reflect, that a change in the national administration or cabinet does not affect in England a single local officer, while in the United States all are elected under central political influences; and it exhibits to us, how widely we have departed from local self-government. It will explain also, why all our party movements produce such deep excitement, and have such a corrupting influence on our public life.

It would be wrong to charge upon any of the Fathers, that they *intended* to erect a centralized party government, and purposed the subjection of the superior men to its tyranny; but *that they did it*, and that they made appointments and elections subject to arbitrary motives, is an unquestionable fact. The governments and administrations thereof, which they put on paper, have been our *nominal* political authorities, but the *real* power are our party organizations, that slipped in through the back-doors which they had left open. Jefferson and Adams, who lived longest and sinned most on this point, did not live to see the first breakdown of party government in 1824. And Jackson, Benton, and Van Buren did not witness that of 1860. And Lincoln, Seward, and Chase escaped that of 1876. It is the ever-coming American society that has had to bear the brunt of the oversights of these politicians. Washington stands free from blame; indeed, he deserves credit for his prophetic warnings in his farewell address. They are said to have flowed from the pen of Hamilton; if so, it only shows that men may warn against their own wrongs under the inspiration of a purer mind. For Hamilton inaugurated, closely followed by Adams and Jefferson, the parties, that have divided and misdirected us ever since. Between them an honorably free, yet law-obedient public administration of public affairs, has been lost; and with it, the constitutional government has been really set aside, and our actual political powers are our parties. But are they more than reeds shaken to and fro by partisan winds? They cannot form the true public spirit of the country, for they are the two halves of it, and cannot,

therefore, be its total or soul. To be *that*, they would have to cease to be parties and to reinstate the true government of the country. Then there might be, what has never yet been in the United States, a thoroughly organized, obedient, yet free public service.

More and more a person desiring to be a public man had, as things went, to attach himself to one or the other of our national parties, and their respective success became the leading object of himself and his family. The country ceased to be *one* republic, it divided itself into two, and they kept up an endless war upon each other. Society has therefore never been self-poised; its public interests were always the secondary consideration, those of the parties the first. The country had to pay for its own disintegration with offices and jobs, and, as a matter of course, they were made constantly more numerous as well as more lucrative. By 1830 the party patronage extended to tide-waiters and menial office service; and a few years afterwards it had absorbed constables and the police generally. And now set in a mutually corrupting influence. The candidates paid the expenses of public campaigns, and the people allowed it; knowing, that these party leaders would reimburse themselves out of the public treasuries or the fees attached to offices or profits on jobs. What else could that mean, except that the voters were willing to be rode, provided the riders paid for the saddles and the spurs? The old question, put so often by Franklin, whether a part of mankind were born with saddles on their back, and another part with spurs on their feet, was now changed to the inquiry: whether a people under a dual party government were not a standing invitation to low ambition to mount them and to ride into power?

In the minds of the great jurists and political scientists of our age, as indeed of those of all ages, the official corps of a government stands as the conservator of the ethics of the country, and they provide therefore for its education and discipline with great care. They begin it in the common schools; continue it through high schools, academies, and universities; and then compel them to enter the public service through the subordinate offices, with the prospect, that they may work their way up by promotions for merit. Not so in the United States; our people are told, that such a body of trained officials constitutes a "bureaucracy," and that it is dangerous to liberty. And this scarecrow has served and is serving the purpose of the demagogues and office-holders of this country. Such a body of officials act in continental Europe as the staff of the body-politic in having efficient administrations of its public business.

The laws are not only more faithfully, but also more effectively executed, rights of person and property are better protected, and there is besides greater economy in all public expenditures. They are not only not inimical to liberty, but are actually a safeguard to freedom. They are much less obsequious to those in power, than our office-holders, and many an arbitrary act of the higher officials has been prevented by their refusal to carry it out. In short, power has much more supple tools this side of the Atlantic, than on the other.

This debasement of public life, of which we see the ripened fruits, was slight, yea almost imperceptible at first, and it developed slowly, but steadily; gaining, like all downward motion, momentum, as it progressed. Let the reader take any office and its incumbents, and run his mind's eye over its history, and he will find less and less qualification and more and more assurance in the incumbents. A lower and lower grade of men dared to aspire to higher and higher public positions, until at last the voters lost sight of all standards by which to confer office, except their very small but intense party prejudices. Office-seeking and voting are now the two national passions; and the appetite has grown by what it fed on. Both the people and the candidates needed more offices and more lucre; and it never stopped, until the seriousness of things was hard to distinguish from its ludicrousness. The masses were childishly fretful at the many low characters, which the ballot-box and the appointing power sent into office; but also childishly enraptured, when, by accident, a proper man came into public life and performed something great. The extent to which this was carried cropped out in all its grotesqueness as well as pollution, in the remark of *Lincoln*, that every regiment of the Union forces contained material for a President and Cabinet. The idea was consistent with all *his* surroundings, and was no doubt reciprocated by the private soldiers, whom we may well imagine to have returned the compliment by saying: "True indeed is Father Abraham's remark, but correct also would it be to say, that he and his Cabinet might with safety to the state be transferred to the most humble stations, such as county commissioners and city councils." This idea, that everybody is fit for every office, and every office suitable for everybody, is the essence of universal qualification for office.

We have often wondered, why the true logic and antitype of universal qualification for office, a lottery wheel and its eternal rotation, has not been resubstituted for the ballot. In the first there is, after all, an operation, that is in principle a denial of a falsely asserted universal right. How clumsy are all our manip-

ulations to hide this truth! Think of primary meetings, conventions, the polls! Is it not chance, dealt out by malice or favor, that guides the result? A lottery wheel would have at least neither of *these* faults, and if it were made the rule, that no man should hold any office longer than one month and never more than one office in any four years, and there would always be an office for every head within this period. There are 150,000 offices, which, multiplied by twelve, would make 1,800,000 chances a year and 7,200,000 in four years, just enough for all the voters. All that would be necessary, would be to register all the voters, print them on slips of paper, throw them into a lottery wheel, add new voters, from time to time count the dead as blanks, and we should have a complete republic, every man some time or other in office. What a universal satisfaction! Even a Washington could then get but his arithmetical share of the offices; and the meanest man could get as much, but no more! It would be giving to all the rights "to which nature's law and nature's God entitled them." We might then say: Ballot-box, where is thy victory? Party, where is thy sting? Let us have peace! . . . But we must stop such contemplations and return to our subject.

It has of late become a practice of the leaders of the Republican party to charge upon General Jackson and his adherents the introduction of the spoils policy, but *we now know*, that it was born with the nation, that in fact it anteceded it, and that it is the natural result of political conditions such as must exist in a nation, all of whose historic memories run back to rulers, that won power by conquest, and had to maintain it by patronage and favoritism. We would ask: What real difference is there, between the partisans who are the tools of ambition in our elections, and the soldiers of fortune and the politicians, that aided the various invaders of England to subjugate that country? Is there any other difference, than the mode of warfare and the arms?

Men that win victories over fellow-citizens cannot be good rulers over a country! The vanquished cannot help hating them; and *they* must, on the other hand, use means to hold their opponents down. How then can their reign be good government? When Jackson spoke, in his inaugural address, of *reform*, as "a task not to be overlooked," and said it should consist of the "correction of those abuses, that have brought the patronage of the federal government into conflict with the freedom of elections, and added that the counteractions of those causes which have disturbed the rightful course of appointments, and have placed or continued *power* in unfaithful and incompe-



tent hands," was a great public duty, we must not take these words as a new proposition, still less as an understanding of or a desire to eradicate the real evil. All Jackson's remarks amount to is: that he was speaking of an *existing* evil, whose effects on himself and his supporters he felt keenly and described graphically, but whose deadening influence on the entire government of the country, he did not realize. At any rate, he did nothing to reform it, except to turn out the more obnoxious of his opponents. But removals and appointments were no more arbitrary after Jackson became President, than before: They were more numerous, but in principle the same as before. A party that is in long-continued possession will, of course, not want to change its tools, except so far as it desires sharper ones; while an incoming President, such as Jackson was, will bring with him memories of dislikes, similar to those the Saxons felt against the invading Danes and Normans.

But we must now bring this matter before us still more in its full reality. In the spring of 1828, one of the most trusted, and as we know, regularly inspired friends of Jackson, Moses Dawson, gave in his adhesion to the proscriptive policy in these words, as published in his paper:—

"Jacksonian or no Jacksonian. No half-way measure! Either let us have honest, capable men, plenty of whom are in our ranks, to do our business, or let us give up the whole contest. We reiterate, the supporters of a rotten system are not qualified for exercising the duties of any office with honor and honesty. We say: Let the people bestir themselves; they have strength, let them *assert* it. Let them not add to the power of their enemies by electing them to offices, which they know they will prostitute in the service of the most corrupt administration, that has ever disgraced the United States. And we conclude: Jacksonian or no Jacksonian, that is the question!"

This was published for a *city* election in Cincinnati, and similar remarks were made in the fall, in reference to the county election. The ticket extended, then, already to fence viewers and constables,—the Adams' men excepted these petty offices. Thenceforward there was a rush for subjecting township, county, city, state, and federal elections and appointments to one universal standard, to wit: conformity to the so-called doctrines of the national parties. Neither side would vote for candidates of the other party, and no appointment was conferred by the appointing power on a dissident. The people corrupted the government, and the government the people.

All this was done under the axiom—that *the majority is to govern*. Jackson followed his previously-quoted remarks up in

his next message, by saying : "The duties of all public officers are—at least admit of being made—so plain and simple, that men of intelligence may readily qualify themselves for their performance ; and I cannot but believe, that more is lost by the long continuance of men in office, than is generally to be gained by their experience." He wants all appointments limited to four years ; and continues : "In a country, where offices are created solely for the benefit of the people, no one man has any more intrinsic right to official station than another. Offices were not established to give support to particular men, at public expense. No individual wrong is, therefore, done by removal, since neither appointment to, nor continuance in office, is matter of right. The incumbent became an officer with a view to public benefits ; and when these require his removal, they are not to be sacrificed to private interests. It is the people, and they alone, who have a right to complain, when a bad officer is substituted for a good one. He who is removed has the same means of obtaining a living, that are enjoyed by the millions, who never held office." Jackson wants the idea of "*property in official station*" destroyed.

Think of it, how these words must have found an echo in every man's breast, that was out of office. The vast majority ! And how many hearts leaped with joy at the concluding words ! "And although individual distress may be sometimes produced, it would, by promoting that *rotation*, which constitutes a leading principle in the republican creed, give healthful action to the system." The lottery wheel was obviously the thing !

Jackson had evidently the same idea of office, which Henri Quatre had of food. The latter regarded it as the acme of good government, if every peasant had a *poule au pot* ; the former thought, that that would be attained if every citizen had an office. And *that* was Jackson's benevolent wish and not the brutal cry : "To the victors belong the spoils !" Governor Marcy uttered that ; but he only repeated it after William the Conqueror, the prince whose life and death, indeed his vicissitudes after death, are the prototype of American parties. Rulers, that come in by conquest or usurpation or fraud, can never govern a country by due course of law ; they have to try to make their will the controlling authority, but they can never succeed to an undisputed possession ; and when they retire, their partisans will quarrel over their bodies, and prevent a decent burial. William could not die in the England he conquered, his personal adherents ravaged his palace in sight of his naked dead body ; and he but entailed on England and France causes for shedding blood. So our parties and those they elect ! They obtain power in violation of the true spirit of the Constitution ; they

must try to rule upon their own basis, a victory over their rival party. From first to last their government is questioned. Their whole existence is a contest over spoils; and down to the hour of their downfall there are fights and struggles, that will not let them expire in peace. Even when they sincerely make the country's interests their guide, they will not be believed; on the contrary, each, conscious of their own partisanism, still accuse the other of having none but partisan motives. That is the logic of such situations.

Or was this fate? No! it was and is the sequence of the acts named! No single despot, nor aristocratic coterie, no church, no government clique ever carried party favoritism and persecution to the extent, to which American parties have carried theirs; for all other public powers have always reserved out of their arbitrary action some public positions and questions, that were either too great and sacred, or too little and trifling, to be drawn into the party vortex. But in the United States nothing was exempt. From President down to the police-officer, from the highest to the lowest public issue, all were attempted to be subjected to party caucuses, to their conventions, their stump oratory, and press editorials. A member of parliament has lately said: "From America we can learn nothing but politics." The remark is true, if politics consist of party manipulations and elections, but it is incorrect, if the word means public conduct according to rules of intelligence, virtue, and wisdom. In the latter sense we would change the remark and say: From America we can learn nothing but false politics. Emerson asserts "that our people have their intellectual culture from one country, and their duties from another," and he calls it "a false state of things." How much truer the remark would have been if he had said: We have from England England's political party practices, but we have tried to inject into them our false theories of government, and have carried them *ad absurdum*.

Where is the public policy, where the political axiom, where the enactment, which every intelligent American, that loves his country and its people with all his integrity, can be asked to subscribe to? Very few such can be found! In lieu of them we have partisan opinions, which only one-half of the country, and it insincerely, affirms; and which the other half must condemn and despise. Our public opinion is therefore ever blazing up, ever flickering, ever dying out; indicating, like the weather-vane, nothing but the prevailing wind. We are a nation tortured by an endless variety of doctrines, and we confide our government to none, that are not personifications of bundles of

schisms. Why wonder any longer that American politics breed vacillating, corrupt, and proscriptive public men? Should we not rather marvel that, amidst all this demoralization, there is still left a small, enlightened, and virtuous minority in both parties, who refuse to be misled and stand by the truths, which political science and objective thinking is ever evolving? This minority has to perform for our people the difficult task, to lead them away from parties and their leaders. The task is so difficult, because the parties believe their lies to be truths. But the severest impediment is the necessity imposed on right-minded men, that, to do and to be right, they have to mingle in the party politics of the day. And when they approach them, we feel like telling them: *Risum teneatis amici*. But of what use is it to hold one's laughter, when as soon as they enter, they have to stand up to their knees in the filth of partisanism?

Most men of this minority refuse to enter the quagmire of politics, and they seek refuge from the general degradation in the army, the schools, the colleges, the corporations; anywhere, rather than be elbowed and cuffed and driven by fellows, that laugh at dignity and sneer at honesty. But they might as well be out of the world, as in these bye-places of American politics. Still let us be thankful that they exist; for it leaves a hope, if it is small, that a reaction may yet set in against universal qualification for office. Possibly the public mind may yet be weaned from its misconceptions step by step, until our public service will entirely rest on merit. In those semi-public concerns, such as railroads, banks, insurance companies, &c., they are getting bravely over employing the so-called "practical men;" that is to say: men that have plausible theories for doing things wrong, and are popular, because they swim with a false public current. In the churches also, the camp-meeting orators and the rabble-rousers are being set aside; and they keep hold of their public for shorter times, while the educated ministers are more and more preferred. These things show, that common sense never leaves mankind entirely, and that it will always, sooner or later, seek the assistance of cultivated minds. Jackson and Benton, for instance, who had so many vague leanings against professional public officers, excepted West Point and many military as well as technical officials. They declared that "there were things too big and things too little for party," and yet they retained their party's confidence. All these things put together gives us the faith, that if such men were now to take up the subject of our public service, were to analyze it with their keen intellects, and present it in their plain graphic ways of expressing truths, our people would sustain them in abandon-



ing our erroneous systems of elections and appointments, and give America, what it has never had, an efficient free administration of public affairs.

The present anarchic condition of the public service, and the magnitude of the peril, which it carries with it to the states and the Union, raises our wonder the more, the oftener we meet, in the state-papers and public expressions of the respective periods, with apprehensions, that too large a quantity of government was inimical to freedom; for the true conception lay so near, that it was not so much the quantity of government *per se*, that is dangerous in republics, as the quantity of stimulant, to ambition and mercenariness, by which they tempt their public men. The Fathers were jealous of every addition to public power, and they did not overlook the peril there was in the growing executive patronage, but they failed to see the precariousness of the public peace in a country, where, on the turn of every election, depended the public careers and personal success of every aspirant for public position, from President down to constables. Thus, while they were watching with eagle eye every enlargement of regular authority, they not only did not watch, but actually encouraged (Washington always excepted) the growth of irregular party power over public life. No republic can stand this strain upon its public virtue, it must culminate in disaster! And it did break out into open war in 1861; but the public mind, including that of Europe, mistook for patriotism what was in most cases nothing but partisanism. They presumed, that our armies were fighting for liberty, when in truth the struggle was for party ascendancy. The mistake was so all-pervading, because patronage then affected nearly every family in the land.

We must again state, that the knowledge our Fathers had of the nature and workings of the British government (their model much more than they confessed to themselves) was very likely to mislead them. Here was Great Britain much free-er from commotions, and seemingly with a better government, than France and Germany. Its public service showed less decrepitude, and its society fewer social diseases; why not then prefer its free-and-easy system of patronage to the rigor and strictness of entries and promotions for merit in public employment, that was practiced on the other side of the British Channel? That the evils of the British modes were partisan, and purposely hid out of sight; only critical eyes like those of Lord Shelburne had discovered and exposed; but his propositions were ignored for the time being. The disorders of other countries, as for instance France, were mistaken for administrative misrule, the very

thing that was much truer of England than France. Queer state of things, that two nations like the British and French should commit a double error as to each other! That England should persistently ignore her administrative inefficiency, and France accuse her high administrative capacities of being the cause of social evils, that had an entirely different source! Great Britain has since taken up Shelburne's measures, and is slowly carrying them out; and France has adopted Turgo's socio-political reforms, and both have been greatly improved. Queer, is it not? But queerer still, it seems to us, that America, that had *carte blanche* as to the organization of its public service, should adhere to the false British system of political-partisan appointments and elections; and should thus ruin her public administrations in advance, and create a servitude upon the talents, the cultivated minds, and the men of integrity in America, the like of which the world had not seen for fifteen hundred years! We ask: What could possibly so have deceived this people?

It was the idea advanced by Jackson in his second message, that "the duties of *all* public officers are, or admit, at least, of being made so plain and simple, that men of intelligence may readily qualify themselves for their performance." This error was very natural in a man grown up under social conditions, of which slavery is the controlling consideration, and in which political administration can be largely dispensed with, and the little there is thereof, will be the more popular the less it administers. But it was unnatural in men grown up in communities, where an active, courageous, and technically qualified public administration necessarily constituted the very backbone of society. Such men were Van Buren, Silas Wright, Woodbury, Marcy, and yet they supported the doctrine! It has landed them and us, where such errors always land folks, in subjecting the country to all the expense of even the costlier public administrations of other countries, and depriving it of the benefits which we ought to derive from our public organisms. Our governments never made roads for us, as they might and should have done; we have to have a private *detective* (*sic*!) police outside of the public police; the supervision over estates of inheritances is superficial, we are insecure in person and reputation, our fiscal affairs are both deficient as well as corrupt, our public charities are but openings to good livings for a low kind of officials, the good citizen dreads our courts of justice; in short, the goodly men and things of the land are outside of government and public administration. And no wonder, that the impression prevails, that every public office abolished, is a

public gain, and every one created, a public loss. And this is sure to be the outcome of any public administration, whose duties are defined upon the idea that "they can be made so plain and simple, that every intelligent man can qualify himself for their performance." The plainness and simplicity consists in reducing their performance down to drawing the salary, or per diem, or the fees, and doing nothing or very little good work. It is the simplicity of the housemaid, who understood excellently how to eat the victuals, which the housewife cooked, but could cook none herself.

*The premise of Jackson was false!* Public administration is never simple or plain; it always has inevitable complications; and all the simplification that is possible, is to assign to each officer specific duties as far as this is attainable. Any other is out of the question in the majority of offices, such as auditors, clerks of courts, judges, heads of departments, prosecuting attorneys, postmasters, etc.

Jackson's idea had, moreover, only a color of success in many of his appointments; because the offices were sinecures, and the details were really attended to by competent deputies. The ability of the underling had supplied the want of it in the superior. The latter was the "simple," the former the disciplined person. The whole country was studded over under Jackson's ideality with postmasters, treasurers, county clerks, auditors, recorders, probate judges, who were the mere figureheads of the respective offices. It was a simplification that brought finally a disgraceful complication.

Jackson's simplified public service had, as substratum, a simplicity of conception, which looks like a *perpetuum mobile* in the purifying process of government. He assumed the people and their private life to be a perennial fountain of public purity, and every time he put in a new officer, he was, of course, assumed to be a pure man; for did he not come from this fountain? But, as he became then a member of the government, and, as *it* is the source of corruption, he was held to be under a process of demoralization; so he could be saved from total depravity only by a short tenure of office, which would return him, in a year or two, back to the fountain of purity, and then, being submerged therein, it acted as a Lethe stream, in washing off the rust again that had gathered on the man while in office. This *rotating* political rebaptism, with Jackson and the democratic party at the crank, was indeed a plain *simple* device, and it had only one difficulty, and that was, that the people were *not* the perennial fountain of purity. They are, or better said: society is, a fountain of impurity as much as of purity. It itself needs

purification and rectification, and that is the very object of good government. Society attains it by organizing itself politically, and by educationary, disciplinary, and correctionary processes. These it gets through a body of officials, who, though not angels, are the ethical forces of society. Our governments are bad, not because they are governments, but because they are officered the wrong way. Rotation in office, as long as it rotates into office only incompetents, or at least only persons, whose qualification is not inquired into, is but like a mill running on sawdust; it cannot grind good grist. The point of purification is at the beginning; it is in the preparation, and not in the rotation. A few figures will demonstrate this, so that none need mistake the matter any longer.

Germany, with a population of forty millions, prepares annually for the various offices about fifteen thousand persons; about half have university educations, about one-fourth are educated in facultative colleges or schools, and another fourth is disciplined in the army, in the lower offices, and trade. No person gets office that is not qualified, unless some fraud is practised, which is always likely to be detected and punished. America prepares only army officers, judges, and school teachers, and they constitute about one-tenth of the twenty thousand new candidates for office which spring up annually. Now it is self-evident, that we may turn the crank ever so often and we can't grind out good officers to any large extent, while in Germany there is almost a certainty of an efficient public service. The chances are here that we turn out better officers than we turn in. Moreover, we increase the number of candidates geometrically; in Germany, they check them by requiring preparation. In Jackson's time, 1828, there were not a thousand new candidates a year; now there are twenty thousand at least in every twelvemonth.

It is not true, then, that "the duties of all officers are, or admit of being made, plain and simple;" on the contrary, they are complex, and need specific qualification to a greater or lesser degree. All need preparatory general education, all require particular office discipline and integrity, and none can do without the culture of a high-toned public morality, the *esprit du corps*, in its best sense. The political partisans of a country have no *a priori* fitness for official position and routine; they are, rightly considered, *prima facie* unfit. No country, not even England or America, with all the growth in wealth, acting as a Lethe stream, that wipes and washes out the traces of its political errors, can stand the filling of its administrative offices with partisan politicians to any large extent.



Wherever it is done beyond the purely political offices, it will lead to practices which will demoralize the public men thereof, and end at last in a condition of things, which imposes on aspirants to public careers the use of ways and means which destroys their finer sensibilities and their high-toned honor. Then happens what is so well portrayed by Seneca of Rome : " Even the man wanted has to do things, in trying to ascend to power, which unfit him for being the country's magistrate."

We concede that, in republics, the popular mind must have some offices upon which it can exercise its thinking, talking, and voting, so as to express its public opinion on public questions and men. All the purely *political* offices should be freely surrendered to popular action. These are the presidents, governors, mayors, congress, and the legislatures. We admit, also, that in township villages, and such smaller public bodies, direct elections by the people *in annual town-meeting*, after hearing reports, and discussing them and the measures proposed, have with few exceptions proved better than *outside* appointments, though assessors for tax purposes should be taken out of this rule. But no administrative, including judicial officers, should be appointed or elected, except for merit, and clearly proved qualification. They should *earn* their office by educating themselves for them, but having earned them, should not be exposed to arbitrary removals. Governing and administering are two functions, which are wide as the poles apart; and while the first should be open to popular and political, and, to a moderate degree, even to partisan influences, the second should be kept free from them. To this we must now add, so as to avoid misconstruction, that we do not hold it to be an evidence of a high state of society or government, when the good citizens of a country have to be ever on the *qui vive* to overcome political (party) agitations and manipulations, and to keep bad men (party loafers) out of power. A public life that absorbs all the time of the citizen, to keep the government from robbing him of the means of subsistence, proves the existence of a low government and a bad society. And freedom purchased at such a cost, is not worth the expense, in money and time, which it takes to secure it. A people that have to be afraid of every man they elect, must be under totally false standards for their choice.

Everybody (the true friends of liberty most) is amazed at the corruption that pervades our public life, but why not look into our own hearts to find the corrupting principle? Why are the bad men popular and the good men unpopular? Why is it a safe presumption, that the man that gets the highest vote on

a ticket is the meanest man on it? Is it not, because the large majority of voters cast their suffrages from favoritism and prejudice? When will we learn that the ballot-box is no washing-machine, into which names of unclean men can be thrown, which, when counted out into majorities, became clean and competent? No! Popular arbitrariness is the cause of our public diseases; it must be torn up by the roots! The portals of public life must be opened again to the gifted, the educated, the virtuous, the frugal, the economic, and the well-mannered of the land; and they must be encouraged to apply for public positions, and to submit to close inquiry into their attainments, character, and history. For the Caudine yoke, established by party rule, which only the profligate, the low intriguer, the small stooping politician can pass, let us establish a standard, that will make the most talented, the best disciplined, and the most competent stand on tiptoe, so as to be sure to reach it and to be an honor to himself. Do not let us get frightened by the cry: "Bureaucracy," "centralization," "red tape!" On the contrary, let us not blink the fact, that, in trying to avoid these things, we have really fallen into the meanest of all tyrannies, party slavery. Standing parties are worse than standing armies.

And how could it ever have worked otherwise? There is not a bank, a factory, a store, or a farm, which, if managed on the basis of American government, would not impoverish its owner. The marvel is not, that things are bad, but that they are not worse. Private and semi-public business is conducted on the principle of getting an equivalent in services for the wages paid; but public business is carried on, in the American States, on no rule of compensation that is either fair or just. Every service rendered, beyond merely wasting time, is now a foundation for extra-pay and extra-honors. The salary and fees attached are regarded as a recompense for money spent in politics and in rendering party services. And this is the cause of so many sinecures. It has often happened that officials, that never work over five hours a day, have denounced the eight-hour law demanded by laborers and mechanics. Is there any other employer in the land that gets as little return for money spent, as these States? What a cackling there is, all over the land, when our officials happen to lay an egg!

To the knowledge of the author hereof the constructive charges of township officers have quintupled in twenty-five years for precisely the same services, in fact for less, because there is no regular supervision over their accounts. The comparative increase in population, &c., in fourteen of the principal cities of the Union, between 1861 and 1876, has been as follows:—

In population . . .	70 $\frac{5}{100}$	per cent.
In taxable wealth . . .	156 $\frac{9}{100}$	„
In public debts . . .	270 $\frac{9}{100}$	„
In taxes collected . . .	363 $\frac{2}{100}$	„

Add taxes and debt together, for they constitute the amount of private wealth that is converted into public means, and it makes 634 $\frac{1}{100}$  per cent. This sixfold increase is, in figures, the augmentation of misgovernment among us, because universal qualification for office has been the basis of making the public offices public spoils. It represents the quantity of peril there is to the public peace. It has made so many advocates of the doctrine that "that government is best which governs least," which is the opposite of Pope's couplet—

"That which is best administered is best."

Neither doctrine, taken as a standard, is correct. In fact, neither social nor political public life can be brought within a single rule. It is too varied to admit of any such generalization. Society, reduce it as we may, must have *some* public authority; it cannot exist without it; and in republics we are all, whether we like it or not, both private as well as public persons, and in both relations interested in a good administration of public affairs. For this reason, we ought all to be in favor of good legislation, sagacious executive action, and wise and just judicial decisions. We have seen how the best-intended government was set aside in the United States to make room for the very worst possible. This we regret, but shall we despair? No! Society and its political authorities are ever in flow, and as they became worse, so may they become better. America is no longer in a state of isolation, as it was, when the Indian possessed its vast forests. It is in daily and hourly contact with other civilized nations, and even if no part of American public life had been freed from party yoke, still we should hope for a change from necessity. But the good sense still left, in the exceptions noted, gives us an abiding faith, that as the public eye is now upon the mischief, it will never rest until the wrong is reformed.

## CHAPTER XIX.

## SEPARATION OF CHURCH AND STATE.

"The thing that should have been done a thousand years ago, and now still undone, is to liberate both church and state from hierarchical petrification ; to adjust matters upon common principles of liberty and love ; thus to socialize both and to construct the universal realm of culture, harmony, and peace."

—*Gregorovius in his History of "Rome in the Middle Ages."*

AMERICA is generally supposed to have consummated a disjunction of religion and politics, and to have become thereby the pioneer in religious and political liberty. But is a separation of church and state, that amounts to no more than a refusal of the state to support churches by taxes, really a forward step? It was an advance, so far as it operated against churches that promulgated a religion condemned by the natural, social, and political sciences; but it is not such, so far as it precludes society from developing its own religion. And we have no hesitancy in saying, that it is a backward step if it means, that this better religion, when it shall be developed, is not to be enforced by the political authorities, and that it shall not be the guide of public conduct. We think that true religion and true politics should mutually fructify each other; that neither can advance by negations of each other; that, on the contrary, progress in one, rests on progress in the other, and *vice versa*. And, if the figure of speech be allowable, we would say: Theological philosophy is the maternal, political philosophy the paternal medium of all new healthy developments. To isolate one from the other (were it possible) would doom both to barrenness, and it always produces this to the extent to which the two are separated. The "petrification," *Gregorovius* speaks of in the above extract, is the product of every one-sided exclusive position; all require for their healthful existence the criticism and the correction of others. The mischief of the conjunction of church and state, effected between Pope Leo III. and Charles the Great A.D. 800, was not in their conjunction, but in the self-deceptions of both as to the other's position. Each of the contracting parties thought to gain a servant in the other, when each meant to be the master. And the conjunction led,



for that reason, to struggles for power ; when, if it had been a true measure, it would have led to a permanent co-operation in the service of society. The attempted disjunction of our age does not and cannot work out the beneficial results expected of it, because it is a disjunction, or rather an attempt at it. What was wanted was a better-understood conjunction.

It is essential that we should realize to ourselves how it came, that modern society fell into supposing, that a state indifferent to religion, and churches indifferent to politics, would amount to religious and political liberty. It was because society was self-deceived, both as to its real condition as well as in reference to the real nature of the measure it inaugurated. It had, beside much false religion and politics, a large amount of true religion and politics, but it was unable to distinguish between the two or to determine philosophically and morally, which it would retain and which it would eliminate and reject. The state was not prepared to order the right church, and the church was in no condition to prescribe good politics. All that could be done under these circumstances was to have a nominal separation, and to reunite, when society shall have dropped the more obnoxious obsolete formula in both. Society gained time in this way to forget some old errors and to learn new truths, so as to prepare itself for the unity in morals and law, which everybody felt to be the great future want of mankind. It was not indifference to religion itself, nor a settled conviction, that it was not necessary to proper public and private conduct, that induced the severance ; on the contrary, it was agreed to, because it was believed that a state-free church would evolve better religion, and a church-free state better laws. Many a time human society would be told that the right basis for the true ethical development had been reached ; but it ever turned out again to have retained too much of the old dross, and that further progress was evidently indispensable. The *Fathers* of American republicanism formulated this in the words of the Ordinance of 1787 as follows : " Religion, morality, and knowledge being essentially necessary to the government and happiness of mankind, schools and the means of instruction shall for ever be encouraged by legislative provision not inconsistent with the rights of conscience." The *sons* construed this sentence to apply only to schools for the youth of the land ; but we think that the teaching of adults may well be considered included therein.

What did the authors mean by " rights of conscience " ? Was it the child's conscience ? or that of the parents ? or of anybody to be instructed ? The church was originally called a school,

and adding the words "means of instruction" does not take this sense of the verbiage away. We think, therefore, that we must either conclude, that the education of adults was included, and that the provision looked to a future re-union of religion, morality, and knowledge in the state and its legislation; or that the writers of the clause were still in the indefinite as to their ideas on the subject. Who will say that American society is for ever precluded from unity in its ethical developments? that, what Moses did for Israel, Confucius for China, Zoroaster for Central Asia, Socrates for Athens, Christ for mankind, and what Luther, Calvin, and Zwingli meant to do, and partly did, for modern society, was never to be attempted for America? Let those who answer in the affirmative then realize, that this would mean that there never shall be the fullest and best political work in these States, and that they shall be debarred from doing what is the first and last duty of all human organic development. It would prohibit instruction in intelligence, virtue, and wisdom, the triune foundations of all civilization. We cannot think that the Fathers purposed such an end of the separation of church and state, and therefore prefer to believe, that they were not entirely clear in their ideas on the subject.

It has been asserted that the framers of our Constitutions were anti-church men, and that they expected churches to die out, when no longer supported by the state from taxes or tithe. We will neither deny nor accept this view of their action; for it is plain by this time, that if that was their object, it has failed entirely. The churches are to-day, in the United States, without exception, stronger than those of Europe. Their ministers and priests are better paid, and more money is expended for church edifices, than in any other part of the world. Take in addition the various book concerns, and we would ask: Where else is as much spent for religious books and papers as by them? We have made some computations, and as near as we can find, the average annual expenditure for churches and church service, including religious instruction, is in Europe about thirty cents per head, while in America it is at least \$1.10 per head. The Catholic Church has richer revenues in the United States than in Spain.

Compare now the power, the influence, the distinction, the incomes, and the treatment generally of the advance thinkers of the two countries, such as Darwin, Huxley, Renan, Strauss, Vogt, and Haeckel in Europe, with such as Draper, Winans, and Ingersoll in America, and it will show, that in the society whose schools, churches, and governments have unity of ethical development, the laborers for future enlightenment stand free-er and

better supported, than they do in the country where church and state are nominally separate.

We may learn the extent to which America has abnegated the control of the state over the churches by bringing before us a few judicial proceedings. The Chief Justice of Kentucky decided, and his decision is endorsed by the Supreme Court of the United States: "Courts, having no ecclesiastical jurisdiction, cannot revise or question ordinary acts of church discipline. The judicial eye cannot penetrate the veil of the church for the forbidden purpose of vindicating the alleged wrongs of excised members." In the Court of Appeals of South Carolina it was held: "It belongs not to the civil power to enter into or to review the proceedings of a spiritual court." The *British Quarterly Review* remarks hereon: "The one great country in the world which has no established church—no church with a jurisdiction conferred upon it by the state, is the country whose jurisprudence acknowledges all churches as having a jurisdiction conferred upon them by the conscience of their members, a jurisdiction, in its own sphere, exclusive of the law of the land." What state in Europe would admit as much for its church? No pope ever received from any emperor as complete a surrender of the individuals of their country to ecclesiastical jurisdiction! Under these decisions men have been denied burial in graveyards, paid for by their money, because they wanted to be buried without the regular church ceremonial. Think of it! In the United States, the several states, the municipalities, and the corporations need constitutions, laws, or charters to have legal existence. Churches do not—they exist *per se*!

But while the courts deny themselves, and the state, jurisdiction for the protection of members against unjust amotion or other injuries to reputation, honors, or emoluments, they change their decisions, when it comes to protect the churches against attacks on their property, or in cases where individuals refuse to comply with subscriptions, or where their endowments are questioned. In such and similar cases courts will often inquire into doctrines, into orthodoxy and heterodoxy, and award property to this or that side according to its opinions on such litigated points. The courts will maintain all express trusts, upon the plea: that the suits are not properly and primarily about church affairs, but about questions of property and rights, that can be measured in money. The presumptions are all in favor of church action, and it takes some positive written statutory exception to justify civil authorities to act on their own law and to set aside church ruling. Questions of property

have again and again been decided upon the rule first established in Pennsylvania: "That the church is not only the best judge, but the only proper judge in church matters, and that there is in them a separate ecclesiastical jurisdiction." Compare with this Blackstone's statement, vol. i. p. 10, that "the canon laws, considered with respect to any intrinsic obligation, have no force or authority in this kingdom (England), they are no more binding here than our laws are binding at Rome." And again (vol. i. p. 19): "The force and efficacy of the canon law has no obligation within this kingdom, nor does its force and efficacy depend on their own intrinsic authority. . . . England doth not, nor ever did, recognize any power as having the right to give law to any, the meanest, of its subjects. . . ." In England, then, the jurisdiction of churches has no existence except by statute or Act of Parliament; but in this country we have freed the churches from the state, but evidently not the state from the churches.

The foregoing proves, that the civil authorities, and, indeed, the public mind generally, has kept up the line of separation as between church matters and political affairs and the respective jurisdictions and right of interference, with scrupulous fidelity against themselves; but have the churches, their ministers and zealots, been equally sincere in refraining from interfering in political questions? Let the agitations for the Sabbath; for temperance; for putting God into the constitution; for the reading of the Bible in the public schools; for beginning the proceedings of legislative bodies and political meetings with prayer; the chaplains in Congress, in the army; and the war upon Catholics and sceptics, answer! Moreover, reflect that churches have been exempted from taxation, which is notoriously one of the three great ancient special privileges of the church. There is hardly a single public question, to which the clergy has not tried to give a theological turn, and they are ever pushing themselves forward for the control of the colleges and universities of the country. We may well ask then: Whence this difference of conduct as between the political and the theological elements? It is not because the one is more moral or high-toned; but it is, as we think, the effect of an irrepressible necessity, that will not let this people lose sight entirely of the intimate and inseparable connection of religion, morals, politics; in one word, of the ethical *unity*, without which there can be no good government. Should not our religion be our law, our law our religion? Who can draw the line where politics or religion begin or end? What a confusion lies in the phrase: Separation of church and state!

The difficulties engendered by the fictitious division of



government into church and state, were never serious between enlightened theologians and jurists, because they simply put aside the fiction and acted upon their better understandings. The trouble has been between the zealots and the hypocrites, who sought personal advantages by pretending to be the special advocates of the one side, and its prejudices, against the other. They are personages *sui generis*, who are politicians one day and clerical the next, and who reillustrate the old fable of the bats, that were finally recognized by neither the birds nor the quadrupeds. They are ever mixing the political with the religious in all public issues, and are thereby incessantly perplexing the common mind. They are the fellows, who use the adherents of churches in support of political wrongs, especially the lower partisanism, and who become with equal adroitness the followers of party in aid of some ecclesiastical scheme. Cant phrases are their watchwords; they always barb the hooks, with which they fish, with some simulated public good; and their highest success is always coincident with some estrangement of the several elements of American society, that had every reason to be friends. The disjunction of the ethical developments of the United States furnished them with the opportunities to sow discord, where concord was the natural condition. The harmonization of a comprehensive real ethical development was wanting.

The United States have thus deprived themselves from having, in the best form, the two agencies that are indispensable to a proper conduct of government, viz. the best possible religious and political culture. They have neither a properly prepared and qualified body of select men for the evolution of ethics (public morals), nor such a body of officials for determining the country's policy, nor anything assuring good administration of public affairs. And it has them not; because religion and politics are here disjointed; and there is not therefore the right kind of interaction between the two; that is to say, they do not mutually test and correct each other. It is true, that no country has as yet had these two instrumentalities in as perfect interaction as they should have them, but it seems plain, that we, who deny even the want of them, will necessarily have them more imperfect than countries who admit their necessity, are at work to perfect what they have, and are aiming at the best possible. That is in our opinion attained, when the religious teachers are probed by political and social intelligence, and the politicians (statesmen) are scrutinized by the religious instructors, and both do it on a basis of equality and as co-operative authorities. We may be told that this was done in the

ancient churches and states; but we deny this, and assert that there was then a church that claimed to possess an infallible standard and to be above critical tests; and that alongside of it was a state that insisted on enacting law by its own fiat and without consulting religious culture. We contend that, to work well, the two must be interactive bodies, and that both must be devoted to the permanent well-being of the respective human society, and not to the supposed separate interest of either church or state.

The Mosaic institutions were defective in having only a priesthood—the Levites—and they often without culture and bound down to ceremonials. This was attempted to be remedied by establishing a king and the prophet schools; but finally the Sadducees, Pharisees, and Essayans had to attempt their reforms. The Christian Church, established by Constantine, was wrong, because it precluded philosophic research as a free mental discipline. It was opened thereunto partially by the Renaissance and afterwards by Protestantism. The Mahometan religion has its *Ulema*, the scholars of the *Medrese*, subdivided into judicial persons and priests; but they are in either capacity the mental slaves of the Koran and its unalterable rules. When in 800 A.D. Charlemagne and Leo III. established the duality of a universal Roman empire and a universal church, then the object was to furnish to the church the executive strength for the enforcement of its decrees or canons; but on the other hand the church was to evolve ethics (religion) through theological culture, while the state authorities should execute and enforce them. Gradually a legal profession developed and universities grew up, and we have now in progress the gradual enfranchisement of jurisprudence, the science of politics, and political economy from clerical petrification. The German states are rapidly approaching a true solution of this question by subjecting all culture to universal instruction and to mutual correction and fructification. There theologians, as well as statesmen and politicians, are coming into the relation to each other, which we have tried to set forth as indispensable to a well-ordered society.

We must again warn the reader particularly against assuming, that because there is little or no official support set out for clergies in the financial budgets of countries, that therefore government or the people are free from churches, and have a cheap religious service. In America this assumption has been a fruitful source of lulling the popular mind into false security. There is in fact much more church rule in the United States than in Holland, Germany, Italy, &c., and it is of a much

lower order and far costlier. To understand the cost of religious service and its value, we must take into account, beside public support, also the endowments, trust funds, and voluntary contributions. The latter are in most cases but a species of arrogant begging, or, as the Germans call it, "Steifbettelei." In Italy, church service constitutes but three per cent. of the financial budget. In Zürich, Switzerland, it is eleven per cent., and yet in the latter the clergy really receives less pay than in Italy, but does more and better service. And the reason is, that in Italy there are more endowments and systematized street and other beggings, which do not get into the budget. Again, England pays only the thousandth part of its total public revenues to the churches, while in France it amounts to  $2\frac{6}{100}$ ths per cent. Nevertheless every one knows that the total amount drawn from the people for religious service is in England five times as much as in France. The *seeming* difference of cheapness, in favor of England, arises from the simple fact, that of the expense of churches in England but little is paid by the state, while in France the public support constitutes the largest item. In France the public knows very nearly what it pays; in England it is hardly ascertainable.

A people who would believe themselves divorced from roads or court officials or clerks, because they are paid for from *tolls* or *fees*, would be regarded by everybody under a delusion; but are folks any sounder in mind, who think themselves separated from churches, because their incomes and expenditures are not entered on the financial schedules of the state? In republics, where a large portion of governing is done by social or conventional rule, discernment on this point is of the highest importance, because, without it, the people will never understand the true amount and nature of their public expenditures. We have again and again calculated the comparative amount spent in the United States for public objects enumerated in our public expenditures, and those not so enumerated, and by far the largest amount falls into the latter category. The total enumerated are about five hundred and sixty millions per annum, while the total non-enumerated, including roads, churches, assessments, fees, &c., is near six hundred and fifty millions. The best statisticians and financiers of modern times have, with a view to clearness on this point, taken special pains to collect all the facts hereon. Our last census shows that our officials begin to pay attention to this, and we hope that of 1880 will introduce into our statistical, fiscal and financial tables of wealth, taxation and public burthens, the rule of action, that it is the states' rightful business to know *all* the public expenditures incurred

by its society as well as its political government. Then the country would know the causes of the crises, that so frequently harass our commerce, and we would be economically free-er, because our conduct would be wiser. We would then also understand better the real nature of our so-called separation of church and state. We allow ourselves to refer here to a very notorious circumstance, that of the \$3,600,000 lost by Archbishop Purcel and his brother to their creditors. Cincinnati had tried for years to understand why its growth was not commensurate to the industry, thrift, skill, and enterprise of its inhabitants. Now it appears, that one of its churches was eating up clandestinely a large portion of the savings of the people.

We are apt to deride the French Revolution, and to regard ourselves as being more practical than the men whom the world called French theorists; but we are bold enough to say: that the measures of the French legislatures of 1789, 1792, which made the clergy dependent directly, and by salary, on the government, and took into the public accounts all the revenues of the church, was a far more practical step towards freeing mankind from church exactions, than *our* turning the churches out into the *fat* pastures of so-called "voluntary contributions." Were laws passed to-morrow in our states requiring church administrators to note down every cent received in any manner by its ministers, sextons, committees, or from individual beggings, or made by its book concerns or fairs, and to report the same, under oath, to the State, and it would have a much greater enlightening effect than all our boasted separation of church and state. We would of course include in this the fees or presents received for marriages, baptisms, and funerals, as well as all sums paid in for the education of clergymen. And we would subject every part of church fiscal matters to authoritative restraint, so as to check mismanagement, and to counteract the advantage taken of ignorance or timidity in the presence of church importunities.

The Catholic Church always understood that the most precious religious freedom consisted in *revenues independent of the state*; and this freedom all the churches of our states have more completely than those of any other country. The writer hereof remembers well the scene that happened in his native land fifty years ago, when the police seized a mendicant friar, who was gathering alms in violation of law. The friar declaimed against his arrest as tyranny; but the judge who issued the warrant told him, that the object of the law was to protect society against *his* liberty to be an idler at the expense of benevolence. And contemporaries, that had at first shown in-



clinations to take sides with the begging monk, now forsook him and coincided with the judge. A little reflection, back to the times, when convents sent forth swarms of such mendicants, convinced them that the state was right in its prohibitions. How insignificant, however, were all the beggings of these friars when compared with the sums taken from our people by the importunities of our clerical solicitors, both male and female! We have not as accurate data as we wish for estimating the total annual sum which religious worship costs in the United States, but taking as our basis, that there are 40,000 churches and an equal number of ministers in the United States, and that each church costs on an average \$1000 per year, and we have forty millions of dollars, or \$1.1 $\frac{1}{10}$  per head of the population.

When we remember that all the real good, the Reformation did, was a rebuke to the false economics imposed on society by the church, through the selling of indulgences, and the freedom to beg, we realize how great a privilege our churches enjoy through their independent position. It guarantees them against all interference from the civil magistrate. There is no kind of church extravagance, which, provided men pay for it voluntarily, the state can inhibit. Voluntarily! Is the man who is under the control of an infatuation, or one that is cowed by public opinion, or one weak in saying Nay! a free agent? The old "*tenth*" or tithe, the direct or indirect fees, the fines imposed in the confessional, left all more liberty of action, than these importunities for aid to the church, which harass our people. No government was ever sharp enough to lay its plans for its victims with half the adroitness, with which these modern church men and women pick out their victims and encompass them with influences and persuasive forces, so that it is almost impossible for them to refuse to contribute.

What can churches desire more than what they have in the United States? Its society has pledged itself, that while *they* may agitate for reform in the state, and over all the individuals therein, the state shall not attempt to improve, alter, amend, or repeal the churches, which are the very fountains, from whose teachings error may flow as well as truth! The principle is: that the churches may acquire unlimited amounts of property and dispose of them at pleasure, that they may teach what they please, perpetuate whatever doctrine seemeth good unto them, appoint agents and officials at will, and that their own law shall determine all litigations as to contracts made with them; in short, that while everything else shall be subject to the collective will of the state, the churches shall not be subject to it; because

the state has absolutely no duty nor right in regard to them, except to supply them with the legal forms convenient to their existence. They have more privileges than any pope ever exacted or asked of any emperor, king, or municipality. The states have no *placet regem*, nor other sanction of clerical appointments reserved to them. The churches invest, with ministerial, disciplinary, and judicial power whom they please, and the state can neither command them to do right nor prohibit them from doing wrong.

American society thus studiously conceals from itself one of the worst features of a clergy, that has to look to voluntary support to get a living; we refer to the incessant agitations with which our people have to be vexed to keep them in the paying mood. It is the religious aspect of the same cause that is at work in politics. In both there is an intense profession of faith and zeal, but very little real religion or patriotism. *Cant* penetrates from this cause more and more all public life; but while the pretence is superhuman virtue, the reality is a very slippery morality. Our society is, to the other nations, for that reason a riddle and a snare; a riddle, because our outward piety has an inner depravity,—a snare to others, because our associations tempt them to follow our example. Heathen Europe never saw in its several processes of Christianization any intenser zeal than many of our ministers display in urging their churches on Christian America, nor did, on the other hand, Gregory VII. have to reform a clergy more mercenary and covetous of worldly things than ours. It is worse here, because our ministers are not, like the old unwived monks and priests, satisfied with a contemplative meagre existence; they want luxurious living in food, raiment, and dwellings. In former times the political authorities had a direct interest in keeping the priesthood down to scant measures. They had an interest to restrain their extravagances, for the expenses of both were parts of one general fiscal and financial programme. The officials knew that what the clergy took diminished their resources, and *vice versa*. The church was, on the other hand, against high exactions for political objects,—the state against rich hierarchical revenues, and both had supervision over each other. The disputes between the priests in Jerusalem and the kings and their officers, as recorded in the Bible, are an interesting study on this point. In America we have, if no other liberty, that of partisans and clergymen to rival each other in eating up the substance of the people. The state does not measure out a proper support to our theological instructors, and they are excluded from having anything to say on what our politicians may take. Hence there is between

them no mutual restraint, on the contrary, a haste, in the race to get rich and to live high on the fat of the land. A body of officials, be they political or hierarchical, that have to wheedle society into affording them wealth, must gradually learn to despise it. And they will then be without that moral restraint, which a sense of duty for a secured living, is apt to engender. The question: What *ought* we to get? is never put; but the prompting will ever be: What *can* we get? They must see or think to see, a people, that is unconscientious as to their pay, and they cease to be conscientious towards them. Therefore most American politicians and clergymen act on the rule: Take all you can get!

The people of the United States have kept the truth from themselves in this matter by a glib use of certain words and sophistical phrases. Among these the most important for us, with reference to our subject, are the constitutional clauses forbidding any connection with or support of "*sectarian*" religion; as if there were in the country somewhere a normal, definite, and anti-sectarian religion. That such an idea should be lingering in the mind of our constitution-makers is the more remarkable, the less actually it exists. When nations, that have established churches inhibit sects from having an authoritative existence, their actions are clear, definite public acts; but in this country, where the right of government to determine, what religion is and what shall be the standard of ethics, is denied, a prohibition of sectarianism is absurd; for who is to decide what is sectarian? The lingering thought, that seeks utterance here, represents, as we think, the remnants of memories, of periods and of institutions, when there was an orthodox state religion. They get down on paper and form a semi-understood mixture of ancestral convictions and modern idealities. To us, we repeat it, the thought, that there is a true religion; that it is the states' duty to find it and to establish it authoritatively; is not odious: what distresses us is the observation which we have had to make but too often, viz: that the clauses which prohibit sectarianism from being accepted or aided by the state, enable by far too many sanctimonious legislators and judges to play fast and loose on the subject of religion.

China has official mediums for finding at all times authoritative standard truth on religious, moral, philosophical, social, and political questions. These mediums are the *Confucianists*; the learned men in charge of the classics, that is to say, of the writings of the sages of antiquity. Both government and the people resort to them for advice and guidance on all occasions. Germany has something similar in the professors of the faculties

in the universities. France has the same thing in her academy (the French Institute); and England secures this end by her two great universities, Oxford and Cambridge, and by her royal literary and scientific societies. In the United States all these things are under no definite understanding. The Smithsonian Institute, Harvard, Cambridge, and a few other of learned institutions, are approximations to real universities; but neither the people nor the public authorities yield to them the authority, the respect (we ought perhaps to have used the word reverence) they must have, either conventionally or legally, which is requisite to make them answer the great object of all such institutions.

We will not forestall the question: whether America will ever establish similar organisms for the evolution of its ethics, both in church and state (religions or politics). Nor whether they will ever have the respect or reverence for authority, which is so necessary to their usefulness? We feel as if too great a correction of public opinion were necessary to allow us to hope for any early regeneration. The most difficult things to cure are, as the fate of Socrates shows, literary schools, which, like the sophists at Athens, practise the art of casuistry like our partisans, or as they said, "teach men to think, speak, and act as to be in love with it." People thus surfeited, become, if the figure of speech be allowable, mental dyspeptics. And as the cure of dyspepsia depends, according to medical science, on supplying the human system with food containing the proper alimentary ingredients in digestible form, so do we Americans require a change of mental diet, by dropping the mass of stuff daily and hourly cast down to us from the pulpits, and by securing to ourselves in some way mental nourishment suitable to our condition. Less mental food quantitatively, but better qualitatively, should be our standard.

The offensive warfare against the Catholic Church in Germany has for its object, that it shall be the integral part, and not the detached branch or sect or appendage, of the *universities*—the *Rechtsstaat*—the totality of ethical development of society and its organs. This very thing America has sooner or later to perform for all its various religious organizations, or else its boasted civilization will stagnate, and finally disintegrate. We advocate no mere imitations of the processes of other nations, but must insist, that some sound process shall be set in motion, and that it shall be encouraged wisely but persistently! Bishop Berkeley's educational plans for America, Franklin's philosophical society (see Bigelow's *Life of Franklin*, page 261–263), Jefferson's labors for a university, and numerous bequests by great Americans for



colleges, and all kinds of institutions of learning and knowledge, such as Bowdoin, Harvard, M'Miken, and others too numerous to mention, not to forget Emerson's musings, were each and all germs of one great cause, that is yet to grow up in America. And when it does come, then, and not before, shall we have the unity in our political, social, and philosophic conduct, without which our public life is now so objectless.

It would be wrong not to state, that the unity of religion and political conduct has never been entirely lost sight of in America. The United Colonies of New England, in establishing their unity, 1643, declare its object to be mutual counsel and aid in all just occasions, but also: "to preserve and spread the truths and liberties of the gospel," so as to have "mutual security and welfare." New Hampshire was refused admission because its civil and religious institutions differed from those of the United Colonies. We find similar objections revived frequently in the course of events. The purchase of Louisiana was objected to because its inhabitants were chiefly Catholics, that is to say, not Protestants; and lately the immigration and importation of Chinese has been protested against: "for being aliens in religion," &c. Know-nothingism (1853-55) was really moved by an instinctive feeling for religious unity; it took a persecuting turn against Catholics specially, because the real truth in the matter was not understood.

And, before passing to another chapter, it must be stated, that, as if in mockery of separation of church and state, the unity of religion and politics has maintained its sway in the minds of the individuals composing this people. When the citizen votes, he casts a ticket from conclusions, which he had formed by blending together the Bible, the Constitution, his preacher's words, what he read in his paper, and had heard on the stump. Church and state were not two, but one in his head, he could not cut his soul in two; and it would puzzle the most learned, as well as the most illiterate, to get his mind into the rubrics and compartments so as to be able to say: This belongs to the church, this to the state. Of what use, then, are all the fictions about separation of church and state, as long as the two are transmutable in the minds of the voters? We can see how a certain religion or public policy may get out of the brain of an individual, but cannot perceive, how he can come to any conclusion without using his *full* mental faculties for that purpose. He may, while listening to a speech or a sermon, hear a one-sided argument, but he cannot make up his own thought or will, without using every faculty in his mind. He may conscientiously try to keep

his thinking distinct, but every such attempt will always be a failure. He cannot separate religious from political reasoning.

A few of the older Constitutions, that of Massachusetts (1780), spoke of a "duty" as well as a "right" in all men in society, at stated seasons, to worship the Supreme Being, the Great Creator and Preserver of the universe; but such obligatory phrases grew early obsolete, and a simple acknowledgment of the "right of all to worship God according to the dictates of their conscience," became the normal phrase. There lingered, however, for some time, objections to atheistic jurymen, but they were never regularly insisted on, after the Quakers had secured the right to affirm simply, instead of swearing, in giving testimony. The Constitution of North Carolina, made in 1776, retained for a long time the clause: "No person, who shall deny the being of God, or the truth of the Protestant (afterwards, in 1836, changed to Christian) religion, or the divine authority of either the Old or New Testaments, or who shall hold religious principles incompatible with the freedom and safety of the state, shall be capable of holding any office or place of trust or profit in the civil department within this state;" but this did not extend to the right to vote at elections (see Arts. VII., VIII., and IX.). The voter must, to be a voter, hold property, but he may hold, or not, certain religious opinions, provided they were not of the kind currently objected to.

The same Constitution and a few others forbid "clergymen or preachers of the gospel of any denomination being members of either the Senate, House of Commons, or Council of State, while they continue in the exercise of their pastoral functions," which shows, that a remarkable and hardly consistent antipathy existed both against the preachers as well as the deniers of the saving gospel. The infidel was excluded from all office; the minister only from seats in the legislature. It only proves, that prejudices always hunt in couples. All Constitutions require pledges, under oath or affirmation, from officers, legislators, &c., to support them. The adopted citizens have to swear allegiance on being naturalized. These oaths add, one and all, religious obligations to political ones, and are always acts recognizing the coherency of religion and politics. How sharply does, on the other hand, the French Constitution of 1795 cut between the two: 352. "The law recognizes *no religious vows*, nor any obligation conflicting with the natural rights of man."

Every oath is a religious vow, it is one fact in the great chain that still binds together laws, usages, and religions. Society needs them as long as an oath produces greater veracity than the simple word.

We may deride the pomposity with which the French express their meaning, but we must admire the directness with which they speak, what they mean, and with which they go to the root of a thing. Our people were ever against what are called "violations of the rights of conscience," but between 1861-70 they stood the most monstrous abuse of test oaths the world ever saw.

A like directness was in Art. CXXIII. of the French Constitution of 1793: when it says:—

"The French republic places the Constitution under the guarantee of all virtues."

What else than this very idea did Washington express in his *inaugural* address, April 30, 1789, when he said: "The foundations of our national policy will be laid in the pure and immutable principles of private morality"? The words that follow confirm this view. In his second farewell address, Washington says: "With slight shades of difference, you have the same religion, manners, habits, and political principles"—words that certainly describe the unity of the four as the "*tout d'ensemble*" of the state. He subsequently states this in the words: "Of all dispositions and habits, which lead to political prosperity, religion and morality are indispensable supports." . . . "The mere politician, equally with the pious man, ought to respect and cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked: "Where is the security for property, for reputation, for life, if the sense of religious obligation *desert* the oaths, which are the instruments of investigation in courts of justice?"

Washington followed these ideas up by saying, that "experience forbids us to expect that national morality can prevail in exclusion of religious principles." And further on he urges: "Promote then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion, as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened."

John Adams ventured still nearer to an expression in favor of the religious unity of the people of the United States by saying, that "among the best recommendations for the public service is a veneration for the religion of a people, who profess and call themselves Christians, and a fixed resolution, to bear a decent respect for Christianity." We may doubt the propriety of such remarks in an inaugural address from a President of the United States, but we cannot overlook the fact, that all our Presidents, indeed, we might say, all our public men, have felt called upon to mingle with their political lugubriousness, religious sentiments. It proves our statement, that the inherent unity

of ethics, law, and public policy has never been entirely forgotten. We do not say that the right unity was in their minds, though we are convinced that the remarks quoted from Washington contain the true idea in great perfection.

The *first* amendment to our federal Constitution—"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof"—has a puzzling look; it contains a double negative: first, that the general government shall not enact a religious establishment; second, that it shall not prohibit such establishments. It has not taken loose constructionists long to argue both negatives into an affirmative assertion of the rights of the states, and the people to erect, indirectly, religious establishments. This political application of the old rule, that two negatives make an affirmative, is not necessary to our argument. We know, that society is the mother of all religious as well as political rule, that social necessity and the perennial welfare of society is the reason for their establishment. As federal governments are the creatures of already-organized societies, that have their ethical (religious) developments, there is no necessity, and therefore no reason, for any such establishment in connection with our Union government. And for Congress to prohibit any religious developments in the states or their society, would be as absurd, as it would be to forbid them to establish legal relations, or their society to evolve morals. A federal religion is as preposterous as an international religion; because in both there are only political relations, and they are expressed in the respective Constitutions or treaties and the custom of nations and states.

We say then, in conclusion, the phrase: "Separation of Church and State" has really no application to our federal government. It has never been united to a church, and can therefore not be separated from one. Our churches can have national organizations, but the United States cannot be their organism; nor do either of these public agencies need the recognition of the other. But this does not mean, that they are antagonistic to each other; on the contrary, the relation is that expressed in an often-abused term: "*Laissez faire laissez aller.*" The latest federal Constitution, that of the German realm, does not contain one word on the subject of churches and religion; and the United States Constitution, as it came from the hands of the Convention, had but one clause in which the word "religious" occurs. It is: "But no religious test shall ever be required as a qualification to any office or public trust under the United States." The first word of this clause—"but"—was inserted, so as to take out of the immediately preceding clause the construction, that



an oath or affirmation to support the Constitution was a religious act. We do not want to be hypercritical, but must say, that this procedure was ingenuous; for it did not alter the fact. And, finally, we ask permission to say: that we regard the American separation of church and state as an armistice during which *pour parlers* are allowed, and we ask the reader to accept this chapter as one of these. There is sure to be a future unity of laws and religious rules, in our so-called "Church free America."

## CHAPTER XX.

*PUBLIC IMPROVEMENTS.*

“ Civilization begins with commercial intercourse.”

—*M. M. von Weber in his “ Railroad Technics.”*

THE fact, that the United States have never had a system of public improvements, which could be sustained on sound scientific, ethical or political principles, proves that something is wrong in our modes of forming a public will. With the experience of many centuries and nations before us, and entirely free to adopt the best, we have been vacillating in our policy, and selected one bad system after another!! Our projects have been vast and costly enough; for we have had a continent and the world's commerce ever in our eye, and have often felt giddy at the vast sweep of view we had. But in the carrying out of our schemes we lacked attention to details, had poor administrations, venal directions, and mercenary local motives, so predominating as to rob ourselves of the glory that shone out of our gigantic enterprises, and to subject us to the accusation, that with all our greatness we have much narrow-mindedness and fiscal littleness. Everybody was for public improvements; but nobody wanted them upon a rightful basis; and their advocacy in Congress and State legislatures, fell therefore into the hands of artful popularity-hunters; their administration into the hands of adventurers; and the end of it all was, what always happens, when false and inadequate means are employed, poor roads in bankrupt hands.

Will the reader, whom our remarks perhaps offend, please reflect, that here was a subject—public roads—which of all subjects, being beyond the capacities of individual procurement, has always been regarded as within the province of government, thrown out and assigned to corporations! Here was also an excellent federal organism, with public authorities that could each respectively attend appropriately to each branch of this public business. But instead of agreeing on their respective sphere, they disputed about it, and either asked one day each of the other, too much, or the next day denied each to the

other the powers, which they clearly possessed. They played politically blindman's-buff, and made those pay most, that should have paid least, and *vice versa*. The means that were close at hand, were disregarded, and those most distant and hardest to reach, were sought after and at great cost; which led, of course, to deplorable financial results. Plan after plan, system after system, was recklessly adopted, then again hastily abandoned, until the public mind was bewildered; and surrendered the whole subject to private enterprise. Now a reaction came, for it soon was seen, that too much was given up, and that the state had duties and rights in reference to the subject, which it must exercise, or there would be a permanent chaos. The people felt oppressed by the action of the corporations; they sighed for relief, and dreamed of some imaginary lost liberty. They clamored, and are clamoring, for arbitrary legislation, as if that were not adding new strife to the general conflicts of interests that perplex us.

Whenever the public mind gets stalled on the subject of public highways, we hear much of *free* roads, which means simply, roads for whose enjoyment nothing is to be paid by those who use them. But as there can be no *good* roads without somebody either paying for or working on them, and as the government would not organize proper administrations nor provide the right laws, it engendered a series of schemes for public improvements, in which sound financiers were out of place, and gamesters appeared to be a sort of necessity. The schemes had one general object, and it was, to deceive the public as to who ought and who actually *did* pay for the roads. The real estate-holders were told, that all they would subscribe for public improvements, would come back to them in a higher price for their lands or lots; and the lenders of money were promised an early return of principal and interest. To use a homely figure: we thought we could eat our cake twice. The roads were thus to be at nobody's expense; and as that was the fundamental conception of the primitive roads that lived in men's memories, the schemes were immensely popular. It looked as if modern finance had brought forward the primeval roads, that were supposed to be made by nature in the forests, whence the Fathers came a thousand years ago. How we admired our age! Did it not give us canals, turnpikes, and railroads, and all by only issuing bits of paper? The Romans constructed good roads; and levied no taxes for them, nor levied tolls; but they were, in the eye of the Germanic races, forerunners of subjugations, and as they hated these, they did not thank the Romans for their work; indeed, they hated the roads also. The free (?) rovers of the

north of Europe needed as few and as inartificial roads as our Indians, and for the same reason. They had no trade and no civilization. Good roads seemed facilities to enemies, not to themselves. They brought strangers into their countries; and was not the word stranger to a Hun, a Frank, a Goth, or a Saxon identical with enemy? Hence they abandoned to decay all the fine roads Rome had constructed after the Romans were repelled, and they deemed themselves the free-er, the less accessible their habitations were to strangers. That conception of liberty is and was at the bottom of all the opposition to a rational and comprehensive system of public improvements in the United States. The Union was not allowed to do its duties as to the inter-state arteries of commerce; the states failed to do theirs as to inter-county lines of communication; the counties not theirs as to inter-township roads, and the townships neglected the byeways of the vicinage. Good private roads were the scarcest item of all.

When the Roman Empire had to relax its hold on northern Europe, all the public improvements the people, whom we now style Anglo-Saxon (really should be Indo-Germanic), and also the inhabitants of England, Wales, Scotland, and Ireland had, was, that they had as many ruts in their minds as they had in their roads: they disliked every species of artificial highway. The last-named countries had mostly a soil that dried up rapidly after rains, and roads might be said to be self-constructed and self-repairing; for they required but little grading, ditching, &c. We have in the American states a relic of the supposed lightness of the burthen these roads imposed, in the laws requiring but *two* days' work of every adult male for road purposes in each year. And to this day the body of the people regard every public thoroughfare, that costs more than that, either in work, or, worse yet, if it has to be paid by toll in money, as *unfree* roads. Up to 1820 roads were, in Ohio, made and repaired by two days' labor, worth about \$1, 40c., for it was lazy labor. And such roads were the only highways in most of the American states for two centuries. Compare this with Switzerland, that has the best system of artificial roads (constructed and repaired by public authorities without toll) at an annual expense of \$4, 20c. per head of the adult male population; and we have the difference between an intelligently economic state and our uneconomic American states fifty years ago. The former had almost no mud roads at all; the latter had nothing else. We may also reflect on the kind of reasoning there must be in people's heads, who regard a good system of improvements as modern tyranny, and bad roads as ancient liberty. The Nor-



mans brought similar ideas to England as to improvements in watercourses. They had had for ages cheap ocean navigation, and they regarded every measure, that increased the cost of water intercommunication, as entrenching on their freedom. A canal would have looked to them as an obstruction to their free roving.

We may as well understand then, once for all, that good roads in France, Germany, and England, as well as in the United States, are not an innate want of the body of the people; that the public spirit, that has produced them, and is producing them, has come from the very Romanic races, that are looked down upon by us. What made Charlemagne and Alfred I. great was their carrying to northern Europe the civilizatory ideas they had learned in Rome, and the fact, that they rose above the native prejudices of the people. Their successors had less zeal and less knowledge, and ceased to lead as intelligently and energetically as these great kings; and, consequently, the nobles and the clergy slackened their efforts, and so the common Anglo-Saxons, Britons, and Germans remitted themselves back to their old freedom (?).

But in time cities sprang up and towns multiplied, and they disturbed the old rights of country people to be barbarous; for they created public improvements. The country people did not like it, and there grew up among them an anti-city rusticity, which we need not tell the reader, is still much alive in the United States. The romance-writers still cater to this feeling, when they depict, as the emblem of the most unadulterated and least infracted freedom, a country council-house, a log cabin or a rustic settlement, to and from which there are no roads but footpaths, or at most bridle-paths. The policy of having seats of government in the woods is a child of the same idea; and the opposition to granting to corporations, or to public authority, the right to expropriate and to condemn, for public uses, any real estate or land, has its inner animus from the same impressions.

It took half a millennium after the ninth century to revive anything like the old Roman spirit among the feudally oppressed nations, that were forming north of the Alps. And it was the post-office again, as it was under the Romans, that promoted this new growth. The foot-traveller and the horseman, as well as the mule-rider, were slowly superseded by common carriers and the use of public conveyances. From France came to England wagons called "coaches," in imitation of the French word *coches*, which were the pioneers of the subsequent French *diligences*. England was all the time a little behind. It took, in 1650, yet seven days to carry despatches from London to

Edinburgh, while in the better times of the Roman emperors regular mail facilities existed by land and over good roads between Paris and Constantinople in six days. England soon, however, overtook the French, and to-day the mail is conveyed by railroad to Edinburgh in nine hours. We can see in these three periods how far the public service had advanced among the Romans, how low it sunk in the Middle Ages, and how efficient it has now become. News from Constantinople to London go now hourly by telegraph in a minute or two; and the death of Abdul Assiz, the late Sultan, was known sooner in London than it was in the streets of Stamboul.

The introduction of the compass (*Bussole*) made a break in the primitive Norman ways of navigation; and soon England followed Spain, Italy, and Portugal in transatlantic movements; the locks, invented by Leonardo da Vinci in 1497, unlocked the canals, and France and England became through them a commercial people. Still roads remained more or less unimproved all through the seventeenth and eighteenth centuries. The emigrants, who came to the United States, up to our revolution, were not, what we would call, "internal improvement men." They knew little or nothing of turnpikes and canals, and the horse and saddle, often not even the latter, constituted the principal mode of intercommunication. The mails were chiefly carried that way; and ladies and gentlemen made their visits, and farmers and mechanics did their trafficking, in that way. Wagons, not to speak of coaches, were scarce. Braddock, the British general, had expected in 1760 to carry his supplies for his military operations with saddle-horses, but Franklin procured him teams with waggons, much to his relief. It was not until the nineteenth century (in 1812) that macadamized roads came into vogue, and as it was a sort of compromise between real good roads and mud roads, it took freely in America; indeed, some take it to have been an American invention. Five years previous Fulton had perfected steamboating. In 1801 was passed the first railway act in England, a horse railroad (Wandsworth-Crosdon); in 1823 George Stephenson projected the first locomotive railroad (Darlington-Stockton); and in 1838 ocean steam navigation became a fixed fact through the crossing of the Atlantic by the steamers *Sirius* and *Great Western*. In 1840 came penny postage; and since, the telegraph has added wings to thought. Commerce could now develop, in full, its great civilizing processes. It could foster the wide outlook, that takes in a world's wants, and seeks to provide for satisfying them; it could think of a vast interchange of the best products, so as to secure the highest compensation to all who produce

wealth, and to let all share in the enhancement of life which this brought. It made local slowness and unfreedom impossible in the long run, and gave to individual independence its certain future.

When the independence of the United States was established, the old spirit of antagonism to artificial highways had been partially overcome in Great Britain, but not in America. Early in the eighteenth century, Engineer Telford had induced the English authorities to begin and gradually complete there a system of turnpikes; and in 1755, the good and far-seeing Yarranton's views, which he had presented seventy years previous, were taken up and canals were inaugurated; which grew rapidly in public favor. There was then proportionably as much speculation in canal shares, as there is now in railroad stocks. These public improvements were known to the superior minds in the United States, such as Washington, Franklin, Morris, Hamilton, Rutledge, and others; and they saw, that the development of the wealth of America could not have its best relation to the world's commerce, unless the means of transportation from the interior to the Atlantic Ocean were improved. New England was less alive to this subject then, because it had a soil, whose nature, like that of Wales, facilitated road building and maintenance. But Pennsylvania, Virginia, and other states had alluvial grounds of great fertility, but not good for roads, without artificial preparation and construction. The south had its—"every family for itself"—life, and its better minds were discouraged by the general sluggishness of the population as to public improvements. So the cities had there, indeed throughout the Union, to take up the subject. Philadelphia was foremost, as we may learn from the reasons given by Franklin at Albany (1754) why Philadelphia should be the seat of the then contemplated Union. He said, "it was the city that had the best road-facilities from all parts of the Union."

The more the west became known, the more awakened was the public mind to the importance of opening it for trade, and this desire found its national expression in the "*Cumberland*," afterwards called "*national road*." The original name came from a town in Maryland, that had been long an objective point of many westward public improvements, of which the extensiveness of Chesapeake Bay was the central idea. It is the largest bay in the United States on the Atlantic Ocean, and the entire surface drained by the rivers, which flow into the Chesapeake, has been estimated at 70,000 square miles. It occupied a large space in the minds of all the earlier states-

men of the United States, especially of the Virginians, including Washington. Cumberland is on the Potomac, the same as Washington City, and it is the largest river that flows into Chesapeake Bay. The Chesapeake and Ohio Canal, beginning at Georgetown, District of Columbia, the head of marine navigation on the Potomac, and running one hundred and eighty-five miles to Cumberland, was once intended to go to Pittsburg, three hundred and forty-two miles, and requiring a tunnel over four miles long, was an old favorite project, to which the United States finally contributed one million, and Maryland three millions. To connect what was next the largest western river in the public mind—the Ohio—occupied then everybody's brains. Cumberland being at the foot of the Alleghanies on the eastern slope, was to be the eastern terminus of the road, and Pittsburg its western terminus. These towns would thus be easily accessible from Philadelphia, Baltimore, and Washington, the then main cities in the public eye.

Mr. Jefferson signed the first act for the Cumberland road under great misgivings; he was afraid that "projects for such public works would multiply so greatly as to exhaust the treasury and endanger the payment of the public debt." He feared that his signature would be "a precedent for other enlargements of the powers of the federal government." He himself did not draw a line of demarcation, as between public improvements, which the general government might and should undertake, and which should be left to the states and cities. He was a strict constructionist, but as he had broken with his own rules of action in the purchase of Louisiana, he yielded to the self-persuasions of the grand *Chesapeake Bay policy*, and signed the bill. His signature was the precedent followed by every president up to Jackson in twenty-three acts, and appropriations of \$2,500,000 in support of this enterprise. George Washington had, under the advice of Jefferson, held that "no money could be appropriated unless the object came within the enumerated authorities vested in Congress;" and as the Constitution spoke only of "establishing post-roads," the question was raised whether that meant any more than adopting roads made by the states as post-roads. Mr. Jefferson himself went a little further, and held, that as three states had given their authority to construct the Cumberland road, Congress might go on and expend money on the same, and declare it a post-road. And Mr. Madison acquiesced at first, but when it was proposed by a bill, that passed both branches of Congress, to inaugurate a general policy, and to "set apart and to pledge certain funds for constructing roads and canals, and improving



the navigation of watercourses" under the plea, that it would "facilitate, promote, and give security to internal commerce among the several states, and render more easy and less expensive the means and provisions for the common defence," he vetoed the bill, and gave as his reason that "the assent of states could not extend the powers of Congress," and that as the authority to construct roads and canals within the states was not given in the Constitution, the bill in question was "too general in its nature to receive his sanction."

The Cumberland was subsequently called *national* road, so as to bring it, in name at least, within President Monroe's construction, who insisted that "appropriation must be for purposes of common defence, and of general (not local) national, not state benefit." In the same document Mr. Monroe announced, that formerly he held to the doctrine that the United States government had no right to expend money except in performance of acts authorized by specific grants of power, but that his opinion then was, that "Congress had an unlimited power to raise money, and that in appropriations they have a discretionary power, restricted only by the duty to appropriate," to wit: "for national objects." The administration of J. Q. Adams had no such scruples, it simply went "to the utmost extent which had been claimed by any body in relation to internal improvements," recognizing no limit except the financial capacity of the Union and its good-will. Thus end all too finely-drawn distinctions, when a great public necessity requires square action and not mere theories. And all the value in Jackson's veto to the Maysville road bill was, that it put a quietus on any further drifting into the realm of the indefinite; for he demanded "a constitutional amendment, that should, in plain, simple language, give Congress the power to attend to the subject." He insisted, that "a previous amendment of the Constitution should be had, delegating the necessary powers, and defining and restricting its exercise," including "as much jurisdiction as is necessary to preserve the works, and to raise funds by the collection of tolls to keep them in repair." Jackson saw, that the practice of acting on half-conceded, half-denied powers, was not only a very costly, but also a very inefficient and dangerous mode of procedure.

After the veto of the Maysville road bill, May 27, 1830, money appropriations for public improvements by the federal government were stricken from the programmes of politicians; for it was no longer the way to power in the nation. So the states took up the subject. New York had commenced the Erie Canal in 1817, and completed it in 1825. The good which

this canal was doing was then on everybody's lips, but the evils flowing from its false finances were not yet developed. And Governor Clinton seemed to be the most popular man in the United States! So Pennsylvania followed suit, and began her great canal. Maryland prosecuted her Chesapeake and Ohio Canal to completion in 1828. The United States had been induced to contribute one million dollars, on the plea that it would connect the capital of the Union with the Ohio, which it never did, but stopped at Cumberland, the initial point of the national road.

We must bear in mind that river steamboating was, from 1815 up to 1830, the main factor in the heavier carrying trade; for it explains why the Atlantic states were particularly anxious to reach the navigable waters of the west. The nearest were the Ohio river at Pittsburg, and Lake Erie at Buffalo. The object of the New York and Pennsylvania and Maryland Canals, were these points, so as to draw to them western business. The difference between the national-road project and these canals consisted chiefly in their being undertaken by the states, and state credit being used, instead of federal appropriations.

This courting of the west had the usual effect; it made the object of desire, think of itself and of self-embellishment. Ohio thought it had better have a policy of its own, and thereby a choice between her admirers. So she undertook her north and south canals, and dreamed of becoming the transit state between the Ohio and Mississippi Valley, and Lake Erie and the St. Lawrence. Indiana, always imitating, yet ever envying Ohio, took up the same idea; and Illinois followed it, her favorite improvement was the Central Illinois Railway. The chief defect in the Ohio and Indiana schemes was and is the unreliability of the Ohio river.

Governor Clinton was brought to Ohio to give tone to the project, and that state began her canals in 1828, and continued building for twenty years, until it had, in 1848, 820 miles of canal. Its financial policy was hesitating; the administration at first good, while under the Whig management of Alfred Kelley; but soon demagogues got control, and they mismanaged, so that the bonds of the state were once sold at fifty cents on the dollar.

For a while all the anticipations of the friends of this policy seemed destined to be realized; the tolls and water-rents rapidly run up from \$1500 to \$452,122, 3c. per annum in 1840 on the Ohio Canal, and on the Miami Canal from \$8042 to \$78,601, 19c. in 1839. The highest net revenue was \$340,000 in 1840 on the Ohio Canal, equal to seven per cent. of the cost, and \$47,000 on

the Miami Canal in the same year, not quite equal to four per cent.

In 1852 the total income of all the canals was	\$809,929	56c.
Costing in repairs, &c.,	367,560	26

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Leaving net income,	\$442,369	30c.
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This was on a cost of \$14,627,549, 79c., on which the state paid \$877,000 interest, leaving an annual deficit of \$435,000. This deficit has been on the increase ever since; and evidently in consequence of the poor business qualifications of the state officers, that had charge of the canals—appointed as they were from political considerations. Finally the state despaired, and leased the canals at a nominal rent of some \$20,000 a year to a combination of politicians, who were making money out of them on these terms, but not much over one per cent. on the original cost. At this writing they are trying to throw up their lease. It is a significant fact in the history of canal-building, that under the partisan rule of selecting public agents, the amount paid for engineers, superintendents, and repairs rose between 1834 and 1839 from \$33,741, 26c., to \$195,627, 13c., on the Ohio canals. Comment is unnecessary.

But the object of the policy itself was wrong; it proposed to *master* commerce, while the state of Ohio should have devoted all its attention to develop its own wealth as the fountain of its commercial power, and its basis in the trade of the world. So far as Ohio could and would be the objective point of inter-state and international commerce, it was for other agencies to frame the policy and to provide the means; for commerce cannot allow local narrow-mindedness to be its agent in its world intercourse; it wants for that—national, and, still better, cosmopolitan statesmen, men like Lesseps, who have the broad cast of mind and the high executive capacities, which are requisite for such undertakings.

The injustice, of using the whole state for a scheme that would enrich only a part, was moreover too palpable not to raise claims in other localities for like expenditures. And soon the legislature was besieged for project after project, and now began a general slipshod construction, because the means were too scant to allow the best construction for all that was undertaken; and the result was, poor canals and turnpikes, that could not have served a world's commerce, if it should have come that way; but, for reasons stated, it did not. These are now used for an interchange of products within the state, but are not as serviceable for that purpose, as they might have been, if that object had been the controlling motive in their construction.

Another cause of the financial failure was the unfair and uneconomic way in which ways and means were provided. There could be no doubt at all, that the canals would produce wealth more than equal to their cost. But to whom would this wealth accrue? That it would do so to the landowners was certain, also that mills and traders would gain largely; but whether it would be remunerative to the state was problematical. The certain benefits should therefore have been assessed, in fair proportions, on those, to whom they would accrue. The lands belonged partly to individuals, but in good part to the United States. An assessment per acre, lowered as the lands were distant from the canals, would have been entirely feasible. The best way would have been, if the United States simply ceded all the public lands to the state of Ohio on condition that the state pay \$1 per acre as rapidly as it sold them. Then the state could have graduated its prices according to situation, and made them a basis for loans, with a sinking fund. Something like this was done in Michigan in the St. Mary's River Canal. The United States had in Ohio, in 1825, about six millions of acres of land. Had they been ceded on the terms suggested, and Ohio then sold them to *actual settlers* at the average price of \$5, or wiser still, \$10 per acre, and it would have realized to the state at least twenty millions of dollars; and thus would have been covered half the cost of her public works; the rest could have been raised by assessments and taxation.

But the main advantage of such a system would have been, that those, who were chiefly benefited by the canal policy, would have had to bear a fair portion of the cost. Many of these turned land speculators, became drones on society, and corrupted the politics of the state. The six millions of acres were a source of private wealth to the extent of at least sixty millions of dollars. Why should part of it not have been used for public improvements?

Had assessments been also made on individual beneficiaries, such as millers, storekeepers, hotels, coffee-houses, for five millions more, running over ten years, and the remainder raised by taxation, and all then based on a well-digested fiscal system, with anticipations of revenue and good general and detailed management, and how different the outcome would have been! What an amount of tax injustice, of wasted and injured public credit, of land speculation and popular corruption, would have been avoided! How much free-er would have been the coming generations! The toll-sheets would have had lower rates, because the cost of the canals would have been charged away as expenses, and no attempt would have been made to make the



carrying business on the canals pay interest on the cost. All they would have been subjected to, would have been the cost of repairs. Whether they could ever have escaped the incubus of partisan efforts to seize the offices as spoils? may well be asked, in view of the universal control politicians have gained over the public service. We think that under the proposed system, or some similar programme, there would have been superior economy from the start, and it would have acted as a moral check on all concerned therein.

When the evils, of the policy of *state* construction of public works, whose object was inter-state commerce, had become obvious in Ohio, it was suggested, that some other programme might be devised, by which the local covetousness for public improvements would at least be chastened, and a wholesome check be put upon the demagogues, that had pushed themselves into the public offices and the jobs connected therewith. So it was enacted in Ohio, and perhaps other states, that for every dollar subscribed by individuals to corporations that would build turnpikes, canals, &c., the state should furnish another dollar. Companies were organized under this act that obtained subscriptions under the secret understanding that they were not to be paid for in cash, but in work and materials at exorbitant prices. And the result was, that the state money really paid the principal expenses. But instead of the state owning the whole of them, it was in partnership with the very rogues that had defrauded it. The law soon got a popular nickname; it was called "*the Plunder law*," and combinations were formed for carrying the legislature (1838-39) for the repeal of the enactment. The *tributary counties*, as those were styled, whose citizens refrained from robbing the state, won the battle in time to stop some of the grander swindles, but not soon enough to save the state from a severe loss, and the people from being fleeced for poor roads.

The state of Ohio was despoiled in this wise, of a little over three millions of dollars for turnpikes, railroads and canals, which, with fourteen and a half millions, lost in its original policy, made seventeen and a half, and with interest-deficits over twenty millions. The state now once more changed its policy, and abandoned the whole subject of internal improvements to private enterprize, but it failed to retain any administrative control. Now the counties and cities were tempted into ill-considered projects, for they were allowed to subscribe to railroads by popular vote, and to issue bonds for the subscription. These bonds were generally sold under par. No sound financial or fiscal basis was established, and, there

being no taxes, except on property, the subscriptions were invariably voted by a class of voters, who could say to themselves with complete certainty, either: that they paid no taxes at all, or what little tax they did pay, was more than double and treble made up to them by benefits. The county seats were the chief supporters of this policy; for their floating population got the main advantages of the construction of these railroads. Some \$6,850,000 were subscribed in that way, and nine-tenths lost entirely. It was simply an arbitrary distribution of the private wealth in each county in which the ballot-box acted as the lottery. There were no equitable assessments for benefits, no fair general taxation, nor even a public supervision. The courts played fast and loose between popular prejudices and moneyed interests.

There are persons, indeed, we may say, there is a political school, that regards the gradual dispensation of government as to public improvements, and the employment of corporate capital in its stead, as so many steps towards a better economic liberty; but we can no longer agree with them; because we cannot avoid seeing the disquietude, which was in the public mind during all the wandering to and fro, which we have had to describe, and which is still disturbing our society. We must, therefore, regard the total abandonment of government, and the preference given to corporations, as a confession of the incapacity of our respective public authorities to find their proper sphere and to discharge its duties. A people are relieved, not troubled, when government ceases to govern, for sound reasons; but, on the other hand, they are injured and not freed, when public authority does not govern, and neglects its duty. The latter was and is our condition. The fact is: railroads *are* built and in operation, and nobody thinks of dispensing with them; on the contrary, they are increasing continually. There was, therefore, from the first, there is now, and there will be for ever, a necessity for some authority to settle the lawful relations of the persons and things involved in them. Government need not itself construct or operate the roads; but the capital invested, the public money expended, the persons and goods carried, raise daily, yea hourly, conflicts of interest, which must be brought into harmony and order by some one, whom all accept as authority. That duty, we think, has not been properly performed in these United States.

The "British Quarterly," October 1872, says of the kind of legislation which we have copied after:—"No general principles were laid down, no uniform system was devised. Everything was left to chance, and was done in a piecemeal fashion.

At first, refraining from all control over railroad operations, Parliament allowed speculators to carry lines everywhere. Opposing companies were left to scramble for the monopoly of whole districts. Abandoned to the audacity of adventurers and promoters, and to the mere force of capital, many schemes had to fight their way at incredible cost. Millions were spent in these contests. Enormous sums were wasted on circuitous lines, which were afterwards in a great measure superseded by others more direct. . . . A well-digested scheme of railroad supervision, by scientific, practical men, would have prevented the enormous blunders that have been made, the gambling risks that have been run, and the extravagant, ruinous expenditures that have been incurred. It is obvious, that when the legislature is asked to pass an act authorizing private persons to execute a public work, provision should be made that the interests of the public at large should not be prejudiced."

Every word of this applies to *our* law-making, and we seem to have been very particular not to adopt the amendments which the experience of British railway management forced upon Parliament and the Board of Trade there. English railroads established, of themselves, the railroad clearing-house in 1847, with consent of Parliament, which was an act of great merit in the railroads, since it was really self-government on their part. "The Traffic Act," prohibiting preferences between parties doing business with them, was passed in 1853. And this was followed by the act imposing general regulations, in reference to operating lines (the Railway Companies Powers Act, &c.). But it was not until 1860 that *we* enacted even the lame laws as to railroad commissioners. And we placed into these offices, "*Do nothings.*" Indeed no others were possible, because railroads had taken the bits between their teeth and were determined to do as they pleased. They had to own the legislatures and rule over any officials that might be attempted to be set over them. They knew very well, that the State legislatures and Congress had neither the will nor the capacity to do what was right, and that the action of these bodies was but a moving about in the dark. The railroads were afraid of the power that elected these legislative bodies, because they knew the people's ears were open to suggestions, which would, if enacted, victimize the capital involved in railroads. They saw, that distasteful as the position was to them, they must make it a question of *power* and not of *reason*, because no one listened to the latter, and all were open to the other.

It was certainly enough to distract fair-minded men to see, that after our governments had, with the universal approval of

the people, given up public improvements like railroads, &c., to private capital and management, that still the public kept clamoring for a system of rates for passengers and freight, which was applicable only to roads owned and operated by government, but which were false when applied to roads built and run by private capital. The rates which a government prescribes are based on calculations that cover only cost of carriage and repairs of roads, as well as a gradual refunding of the money that may have been borrowed for their construction; but the rates of companies must be based on the additional considerations of high profits on their capital, the risks of competition, the reimbursement of the capital invested, &c. The public rates may often be higher than private rates, because they do not yield to circumstances as the others have to. They are varied in the nature of a *duty*, those of companies bear the character of: "get all you can!" How often, when there are ambitious competing lines, do the people ride for less than cost, and have their freight carried almost for nothing! Remember also the free passes to legislators, the half-fare tickets to preachers, the gratuitous carriage of poor persons, &c. All this is necessarily excluded from roads owned by government. Exemptions from regular fares would in these be as criminal as releases from taxes, excises, or tariff duties would be, if made by an auditor's will.

It would seem, that the logic of events would long ago have pointed out, that Congress was and is the proper authority for all inter state or national relations, and also for all widely-extended railroad operations, which may well be called continental. When we remember how long New Jersey blocked Pennsylvania and all the states west and south of it, which sought a free commerce with New York and New England; also the conduct of Pennsylvania towards New York railroads, and that of Virginia against Maryland and Pennsylvania; we marvel, how completely it seemed to be forgotten, that Congress has the "power to regulate commerce among the several states." Every extension of line, under the same management, enables savings in the expenses of administration and running expenses, and insures both a cheaper and better public service. How necessary is it, then, to have public authorities, that stand above the narrow-mindedness of local thoughts and feelings! We may see this narrowness from the following passages from the report of the railroad commissioner of Ohio, 1872:—

"Consolidations of lines, by purchase or otherwise, proceed with unabated energy. The stronger and more wealthy companies absorb the weaker; and are merging roads and interests



as rapidly as the conditions can be satisfactorily arranged; even leasing lines just projected on condition of early completion and proper transfer to lessee." This was evidently sounding the alarm; for the railroad commissioner continues:—

"As a sample of the magnitude of these operations, one road in this state (Ohio), originally but seventy miles long, has through this process now under its control twenty original lines, extending into six states, embracing seven consolidations and numerous leases, placing under one management over twelve hundred miles of road. Another combines twenty original corporations by six consolidations and many leases, one management controlling nearly one thousand miles. These, with other combinations of less magnitude, indicate a determination on the part of a few leading roads to control the transportation of the country."

The "indication" is doubtless correctly stated in the report; but are these roads doing any more than obeying economic necessities, when they seek to combine under one management as large a number of miles of line as can be conveniently joined in a general policy? Are they not forced to do (in a wrong and extravagant way) what, which with proper legislation they would and should have done in the right and regular way? Our public requires quick, commodious, and safe commercial intercourse; and the very combinations, complained of, make it possible to satisfy this want, better than could be done under disjointed management. We admit, things might work still better, if we had proper comprehensive yet discriminating legislation.

To us it seems plain that the commissioner is alarming us unnecessarily about the danger of combined management and *consolidation*. We know, that 145,000 miles of turnpikes and *all* the bridges in France are under one administration, the *corps des ponts et chaussées*, and that the fundamental idea as to railroads is there, that they must form an entire system of public institutions. There the State participates directly in their construction, it determines the lines to be built and their inter-connections (*le réseau*); they are under a general control as to construction and the operation of the roads, and the rates are prescribed by the State (*cahier des charges*), and they revert finally to the State. The latter has a general supervision and regular inspections, with police-power over them, as the prerogative of the State. Why is there in France no apprehension, that a compact, centrally-controlled system of railways is inimical to liberty? Why is, on the other hand, the public mind in the United States continually alarmed about the peril

impending over trade and its freedom through railroads? Can there be any other reason, than this, that in France railroads are subject to well-matured and well-understood laws, while in the United States they have to secure themselves as best they may, and have to make their own laws under a struggle with popular prejudices? Have we not, by neglecting our public duty educated, into railroads, swindles and conflicts, which in well-governed states do not exist?

The animus of the railroad commissioner comes out still more fully in subsequent parts of his report. On page 13 he institutes a comparison between the gross income of railroads and the taxes levied by the state and its municipalities, and he styles the railroad *gross* receipts "transportation taxes," and the state levies "municipal taxes." Was the word "taxes" ever tortured into falser analogies? But he maltreats the science of political economy still more by seeking to prejudice the public mind against railroads, because their gross receipts in the state of Ohio are \$34,257,799, 62c., while the taxes amount to only \$23,248,979, 74c. ! He points out (as if it settled the question) that railroad fares and rates come to \$12, 85c. *per capita*, and taxes to only \$8, 72c. The absurdity of such a comparison, and the arguments attempted to be drawn from it, become transparent, when we apply it to the wages earned in the state of Ohio by days' labor. Their amount is over \$60,000,000, and over \$20 per head of the whole population. Does this larger sum prove hired labor to be dangerous, or that the wages received are too large? The railroads in Ohio, being owned by private capital, *collect no tax at all*. What they receive is compensation for services rendered, and the greater part is not paid by Ohioans at all, but by transit trade. The only time that a *tax* was levied on railroads was when New Jersey levied a head-tax per passenger on the travel passing through the state. The state of Ohio claims no such tax from its railroads; it left the rates, after establishing a maximum for them, to the economic considerations of railroads and competition between them.

Had the Ohio railroad commissioner compared the value of the respective public services, and he would have found that, *his own office included*, the public officers received generally more pay than they deserved, while railroads receive fares that are hardly an equivalent for their service. Moreover, no one is forced to use railroads, while the state seldom leaves a choice to its citizens as to the use of its civil service. In its most offices are sinecures; and fellows full of stupid pomposities fill them. There are also sinecures and small minds in railroads,

but not half as many as in the public service. And what is more, the railroads are cleansing themselves of these abuses, while the state seems unable to do so, and is getting deeper into them. Is it fair and just then? for *officials* to point at railroads and to say: "Coal, ore, iron, lime, lumber, grain, stock, all articles exported or imported, exchange of commodities, travel for pleasure or profit, all pay tribute to this modern Cæsar"? Poor Cæsar! To what base uses we may return! Shakespeare reasoned thus:—

"Imperious Cæsar, dead and turned to clay,  
Might stop a hole to keep the wind away.  
Oh, that the earth, which kept the world in awe,  
Should patch a wall to expel the winter's flaw!"

How instructive the words of Genius! How misleading those of the holder of a state sinecure!

Railroads! The modern Cæsar! Tribute! How could a man of sense couple these terms together in such connection?

Of the thirty-four millions gross revenue received by railroads, \$817,422, 42c. went to the state and its municipalities in 1832. That sum *is a tax*! But is it a just levy? The state does not even protect railroads against pasturing cows; it simply *enacts*, that railroads shall fence their roads, which is another arbitrary tax. Why does it not pass a law abrogating the free roaming of cattle? The reader sees, that a false idea of freedom is at bottom of all such fallacies, as those put forth by the railroad commissioner.

Ohio had experimented a little (1837–39) in railroad-building on her own hook. The road thus built was forty miles long, and extended from Sandusky to the village of Manhattan, a now almost forgotten hamlet. Why did the state abandon that policy? Was it not? because, like an over-indulgent parent, that is maltreated by his children, it had experienced the ingratitude and the overbearing power of its politicians, whom it had intrusted with the construction and management of public works! Had the state and its people felt capable of governing their officials, would they not have continued the policy? But they felt weak, and were weak,—we might say, cowardly; so they chartered some thirty-two railroad companies between 1832 and 1868, with a total length of 3324 miles, the longest being the Pittsburg and Fort Wayne railroad, 259 miles. It reserved to itself no control over the location of the lines, no supervision, hardly police powers; for it wanted to escape from its own officials, and believed that private enterprize, authorized to establish roads as semi-public authority, could not act as

bad as the wholly public persons would, which, most likely, it would be forced to employ. It allowed these railroads to consolidate and to connect with the railroads of other states, for the state was no longer blind to the fact, that it was not *alone in the world*, and that its welfare depended, after its own development, chiefly on its becoming an element in the commerce of the Union and the world. After doing all this, it woke up one day and saw that it must regain some authority. And it established a commissionership as a means to retrace her steps. Our quotations show, what sort of a pathfinder she had in 1872. All the choice she had was between men who were the servants of railroads, or men that catered to popular prejudices. Other states, especially New York and Massachusetts, used better material, and have had better legislation. Pennsylvania, always a victim, fell into the hands of *railroad kings*.

How deeply original conceptions of a subject can be implanted into human memory, and how they color everything connected with it, we may learn, when we bring before us the popular aversion to paying full compensation for services rendered by railroads. Because primitive roads were maintained by labor, and the value of that labor was counted nothing, and those using the roads paid neither toll nor taxes for their use, the public mind assumes, that there is something amiss in every other system of public thoroughfares, if money payment is exacted for travelling thereon. And as railroads occupy the extreme ground thereon, because passengers and freight are charged not only for traction, but also interest on the original cost and repairs, therefore they are most obnoxious to persons who form their judgment on the old basis. It will therefore be some time before mankind will get to measure, justly and fairly, the relations railroads bear to society. The precedents are all taken from roads, whose main cost was treated as expenditure. And how can folks readily so arrange their calculations, as to accept as fair, a system of charges, in which the original cost is carried forward as an interest-bearing capital?

We have not hesitated to affirm, that public improvements built by private capital, and serving the public, for a price to be established under free competition, subject to a fair maximum, is a juster arrangement for railroads especially, than any of the former methods by road labor, tolls, or tax; but we did not mean to assert, that this mode is in itself the proper thing; on the contrary, we hold that no one method should be used, and that, including the last in time, all are, as *exclusive* systems, open to serious objections. Road labor is too exclusively a personal burthen, while highways built and maintained by assessments



on the abutting real estate impose too severe a contribution on the landed proprietors. Tolls on turnpikes, if their basis includes more than repairs, are too high on those who use them. And if no toll is collected on them at all, it is really robbery of one part of society for those who enjoy the artificial roads. We believe, therefore, that the cost of constructing public works should be fairly apportioned between the general government, the states, the municipalities, the real estate-owners, the trades, and other beneficiaries; and that no more should be exacted of those who use or operate the roads, viz: the mail-carriers, the freight and passenger conveyances, wagons, &c., than is necessary to maintain the roads and to perfect connections. The maximum tariff which may be charged the public, should be low, with decennial or quintennial revisions.

It is not so much of importance, that the right proportion be found at first, but that the duty to apportion the burthen enter the public conscience and be kept alive. Where there is a will, there is a way, and all political science is but a gradual perfection by experience. It teaches us, that *free* roads are an untruth in fact, and an economic error besides. Nature does not furnish roads, as it does air and rain and sunshine. To have roads there must be public co-operation and organization; and the question is never how to get them for nothing, but always how much of labor or its equivalent *each* interest shall bear. Men that are advocates of public improvements *per fas et nefas*, and one day seek to throw the whole burthen on the federal government, another on the state, another on the county, another on a large city, another on the property-holders, another on the business of the county, are only laying nest-eggs for future trouble. They are by disposition violators of the ninth and tenth commandments. The men who constructed roads, canals, railways by federal land grants, were but land thieves, and spoliators of future generations; those who constructed public improvements by state credit alone, took undue advantages of coming generations. And so we might go on and expose the several fallacies and wrongs of any one system, when singly employed, but we think we have said enough to prove, that as there are various beneficiaries and each in a different degree, so must there be a corresponding apportionment of the cost among these.

And when we proceed to give reasons to ourselves for this or that proportionate taking of private means for public purposes, such as roads, it brings forcibly before our minds the chief feature, that distinguishes the old from modern systems, to wit: that our forefathers treated roads, &c., as they did public buildings, indeed all public erections, as *expenditures*, while we treat

roads as *investments*. Hence ancient social conditions present no anomalies such as our present ones, to wit: that here are two classes of public improvements, one of which represents public property in which all have a common interest, and for which communism in a good sense is the principle, while the other represents private property of which no one has the use that does not pay for it. Need we wonder that the popular mind is perplexed? Why should one citizen be asked to give his surplus time and money as a public duty, and another be allowed to furnish his as an interest-bearing capital? Does not the very fact, that the state declares a certain *public* work to be necessary, carry with it logically the obligation to have it erected as a common undertaking, whose expenses are not to be carried forward as an interest-bearing fund, but to be treated as all other public expenses are; that is to say: as so much expended for the public good. In other words: has the state the right to have a *public* thing done as a *private* speculation? We think not!

And in searching out the reasons *pro* and *con* on this question, it inevitably leads us to a fundamental financial rule of action, to wit: that no more, but fully as many, public works should be undertaken, as can conveniently be paid for from the savings of the people. Where, we would ask, can the state get due measure for this capacity, except through politic apportionments? If the public expenditure is to one man an outlay that is not to be repaid, and to another a source of revenue, does it not necessarily lead to uneconomic public action and a false distribution of wealth? Does not the very thing carry with it the probability, that more public works are undertaken than should be? Does it not raise in every locality unhealthy desires and false economics as to public improvements? Let any one, for the purpose of meeting these questions, run over in his mind the system we recommend, and he will find, that while the one, now pursued, perplexes and miseducates the popular mind, the one we suggest purifies, tempers, and elevates it. The process of reasoning that must come from a desire to apportion honestly and *bearably* the cost of a public work, carries with it reflections on the rightfulness of the undertaking itself. And the comprehension, that nothing can be a truly wise public action, that introduces into society an unsettled, disturbing element is always near at hand. Have not all our crises in the money market had their source in the violations of this financial principle?

There are in every thing that should be called a public work at all, costs and expenses, which must be adjusted

upon the communistic basis; that is to say: its cost should be defrayed from the public treasuries, and collected by general taxation. And why? Because there are unquestionable benefits from all public improvements to society at large of a nature so general, that they cannot fairly be assessed on particular individuals, or apportioned to special beneficiaries. These general benefits should be paid from the public treasury. We have the principle in the payment of the cost of paving the crossings of streets from city treasuries. But all benefits easily apportioned to particular localities, special interests, estates, or persons, should be assessed on them. If either the one or the other apportioning is neglected, it engenders mistones in society and pecuniary troubles. Every one can see, how clean the whole process, of doing at once the whole public duty, is and how unclean the other is, which goes at things without full consideration. The latter leaves everything and everybody in false relations, and hands to coming generations financial and fiscal complications, which present generations should pay. We may cavil at our forefathers for doing their duty as to public highways lamely and clumsily, but we must concede, that their churches, their public buildings, as well as their roads, bridges, and larger water-powers, come to our use, at least, free from mortgages and bonds. They created no drafts on posterity for public works. They held that, either they should have been paid for by themselves, or that they had better had let them alone. And that is the reason why our age transmits *causes for taxation*, while our ancestors transmitted *sources of revenues*.

We hope it will not be deemed inappropriate to follow up the foregoing observations with some comparative exhibits, so as to show the relative position of the several more advanced nations, as to the arteries of commerce and of civilization. We present them from various standpoints, because we believe, that such a presentation conduces both to comprehensiveness as well as manysidedness of views.

Take, for instance, *length of lines* as the criterion, and the United States will be found ahead of all other nations in all public improvements except turnpikes (*chaussées*). In railroads, they had for instance, in 1878, 72,000 miles, which is—

Four times as many as England with her 18,000 miles.

Four and a half times as many as the German realm with 16,000 miles.

Five and a quarter times as many as France with 14,000 miles.

Six times as many as Austria-Hungary with 11,000 miles.

Six times as many as Russia with 11,000 miles.

Fourteen times as many as Italy with 5000 miles.

If we make the comparison by *Population* (for railroads), and it stands thus:—

United States	have	1750 miles to each million of population.
England	has	550 " " "
Belgium	"	700 " " "
France	"	400 " " "
German Realm	"	385 " " "
Austria-Hungary	"	275 " " "
Russia	"	170 " " "

If the standard be by *square* (geographical) *miles*, and—

Belgium	stands first, having	3 English miles to each geo. sq. mile.
Great Britain	second, "	$2\frac{3}{4}$ " " "
German Realm	third, "	$1\frac{1}{2}$ " " "
France	fourth, "	$1\frac{1}{3}$ " " "
Austria-Hungary	fifth, "	1 " " "
United States	sixth, "	$\frac{3}{4}$ " " "
Russia	seventh, "	$\frac{1}{10}$ " " "

If *cost in total dollars* expended be the criterion, then—

The United States	stand first with	\$4,658,208,620 (stock and bonds).
Great Britain	stands second, "	3,400,000,000
France	" third, "	2,012,000,000
Russia	" fourth, "	1,826,000,000
German Realm	" fifth, "	1,760,000,000
Austria-Hungary	" sixth, "	817,000,000

If measured by *cost for mile*, then—

Great Britain	stands highest with	\$179,920 per mile.
Russia	comes next	" 166,477 "
France	next	" 158,714 "
Germany	next	" 109,952 "
Belgium	"	" 106,987 "
Austria	"	" 73,915 "
United States	lowest	" 52,099 "

But cost does not always represent *value* and economy, and when we inquire: what country's money was *least wasted* in erroneous construction in discounts, excessive and fraudulent profits to speculators? which is the same as asking, which had the *best government*? and—

Germany	stands highest,	no waste at all.
Belgium	" second,	$\frac{1}{20}$ th, waste about \$ 6 millions.
France	" third, a little over	$\frac{1}{10}$ th " " 100 "
England	" fourth,	$\frac{1}{4}$ th " " 800 "
Russia	" fifth, a little over	$\frac{1}{4}$ th " " 750 "
Austria	" sixth,	$\frac{1}{3}$ " " 500 "
United States	lowest,	$\frac{1}{2}$ or 2000 "



France has doubtless taken the wisest course, as to the future relation of the State to railroads, for she left herself a free hand. England and the United States, through the doctrine of *vested rights*, are most bound up; for in them the State is most unfree as to railroads; the United States, in consequence of political complications, being in the worst position of the two.

We tried to get some data as to quality of construction, safety, &c., but were unsuccessful to get accurate figures. As far as we could ascertain, the United States have built more useless, already-abandoned thoroughfares, including railroads, than Europe. And we think the cause of it is, that America erected public works largely from *speculative* motives, while Europe constructs more from established facts, and for technically scientific reasons.

As to intrinsic merits of road construction, of dépôt accommodations and administration, including running arrangements, the United States occupied for some time unquestionably the lowest rank; it did a great deal of after-construction, and called it repairs; but since it has gradually discarded the railroad politicians, and employs, chiefly, men technically qualified, it has overtaken several other countries; and it is in some respects now superior to all. We made a calculation, how many miles of railroad could have been built, with the money actually expended, if provident and competent administrations had attended to the business, and found that 150,000 miles could have been constructed, and that, in distances between the larger cities, twenty out of every hundred miles could have been saved.

In reference to canal and river navigation, the United States are ahead in length of lines, in proportion to population and in pecuniary expenditure, but not by square miles, nor facility of lockage, capacity of miles to be run in an hour, depth of water, and full development of water-power. The reason already given for railroad deficiency applies also here.

In turnpikes (*chaussées*) France exceeds all countries in length of line (145,000) miles, in excellence of construction, in repairs, and all administrative functions. The old Roman spirit has struck deep roots in France on this point. Germany, particularly including here Austria and Switzerland, come next; then England; then the United States. Italy might perhaps outrank England (in fact several states do) if it were not, that others again fall far below the average.

There are numerous miles of roads in the United States which can neither be classed with turnpikes, nor with mud

roads; for they are better than the latter, and yet inferior to good artificial roads. What has hindered their improvement is the imperfect legislation on which they are based. Latterly narrow-gauge railroads have occupied the public fancy, because they were supposed to be the medium for dispensing with both for neighbourhood use. But there is already a reversion in public opinion, and the time will yet and soon come, when narrow-gauge railroads will be taken for what they are, blind alleys as to railroads. Turnpikes will necessarily, like canals, regain much of their former importance, because they will act as the completing instruments for railroads.

The United States have doubtless the greatest number of miles of rather good, wide, common (mud) roads. We tried to ascertain the actual number of miles, but could not do so; taking the post routes, reported to Congress, as the basis, with a few state reports, and we estimate the number to be 250,000 miles. Spain claims to have a million and more of vicinage roads, but we suspect this amount is made up by counting some roads both ways, and that mule-paths are included. If we were to count Indian and buffalo trails, we too might reach a million of miles. We would rather, however, record the fact, that all such roads had disappeared.

Will the reader now please reflect on the fact that there are about 475,000 miles of more or less improved roads, canals, &c., in the United States, and that they involve an expenditure of \$5,483,208,630, to wit:—

Railroads,	. . . . .	25,000 miles cost	\$4,658,208,630
Canals and slack-water navigation,	25,000	„ „	100,000,000
Turnpike plankroads,	. . . . .	75,000	„ „ 450,000,000
Improved river navigation,	. . . . .	50,000	„ „ 150,000,000
Common roads,	. . . . .	250,000	„ „ 125,000,000
		<hr/>	
		475,000	\$5,483,208,620

Six per cent. on that sum makes in round numbers three hundred and twenty-five millions, which would be the sum the country would have to bear for interest, beside transporting expenses, repair, and cost of carriage, if *all* expenditures for public improvements were capitalized and carried interest. The mere statement suffices to show, that such a policy is simply impossible; for five thousand four hundred millions thus at interest, means ten thousand eight hundred millions in *twenty years*, and then an endless accumulation. When we look closer, however, we find that trade has, through more or less critical operations, sloughed off;

In losses on railroad stocks and bonds, . . . . .	\$2,500,000,000
„ „ canals and slack-water navigation stock, . . . . .	90,000,000
„ „ turnpikes, &c., . . . . .	400,000,000
Cost of river navigation never charged up and capitalized, . . . . .	150,000,000
Common roads, . . . . .	125,000,000

And we have a total sum, that is not bearing interest, of three thousand two hundred and sixty-five millions, of which society is already relieved; and it leaves but about seven thousand two hundred millions at interest, or about one hundred and twelve millions annual interest. It would seem, therefore, that what the body does through cutaneous diseases, Society does through crises in the money market, and that it thus relieves itself of what might otherwise prove an unbearable burthen.

The public will desired by 1850 in Ohio, when the policy of building canals, turnpikes, and railroads by state credit had culminated in heavy state debts, to do more than relieve society by the action of the money market; it wanted to prevent the recurrence of the evil in future. So it placed into its Constitution the following clauses:—

“The state shall not contract any debt except to repel invasion, suppress insurrection, defend the state in war, or to redeem the indebtedness then outstanding.”

“The credit of the state shall not in any manner be given or loaned to or in aid of any individual, association, or corporation whatever, nor shall the state ever hereafter become a joint owner or stockholder in any company or association in this state or elsewhere, formed for any purpose whatever.”

“The state shall never assume the debts of any county, city, town, or township, or of any corporation whatever, unless such debt shall have been created to repel invasion, suppress insurrection, or defend the state in war.”

“The General Assembly shall never authorize any county, city, town, or township, by vote of its citizens or otherwise, to become a stockholder in any joint-stock company, corporation, and association whatever, or to raise money for or loan its credit to or in aid of any such company, corporation, or association.”

Excellent negative propositions, but destitute of any positive enjoinder of the real public duty.

These provisions were held by prominent statesmen “to stop all improvements for the next twenty-five years,” and they so stated in the public debates at the time; but was this opinion true? It is our opinion now, and it was then, that they prohibited nothing that was not a well-known abuse, and that the true way to make public improvements was left perfectly free.

Or are we to understand, that when in this country the wrong methods and practices are forbidden, it is tantamount to a prohibition of the right systems? We have the much more serious objection against these provisions, that they were drawn with too intense an eye on specific abuses, and therefore left the door open to all *not* prohibited in terms. The state, and nothing but the state, is protected by them; while, as to all the municipalities, the door for fraud was either left entirely open, or was only partially closed. This was a neglect of the very first duty of a state, that of guarding the body of the people against spoliation by misled local authorities. Positive provisions requiring a fair apportionment, respectively assessments, for public improvements, with a maximum beyond which private wealth or interests or persons could not be burthened in any year, would have given the whole thing a better tone and character. It was done to some extent as to a kindred subject, the schools, but even there imperfectly. And in this connection we must, even at the risk of wounding, mention the fact, that a dark line runs through all public conduct and administration in the United States, which seems to make it impossible for our law-makers, our executives, and our judges to do the right thing in the right way. Even the Union could not be saved in 1861-65 without mountains of debt, legal-tender acts, corrupt fiscalities, and arbitrary acts of all kinds. Why are we so radically wrong, even when we are aiming to do right?

What nobody seems to want to understand, and yet everybody semi-consciously feels to be necessary, is: that money expended in road-building is the execution of a public purpose, and must be treated as legitimate current expenditure, which should be at once covered by fair taxation, apportionments, and assessments. If this is not done, and money is borrowed, or the public work is handed over to private speculation, it is illegitimate public economy, and engenders social diseases. Road construction is a conversion of private into public wealth. And, do what we will, the sum thus expended is so much withdrawn from present private capital. If properly distributed by law, the burthen is light on all concerned, and disappears from general business; but if not, it is a thorn in the movements of trade, until it is, in some way, wiped out. Why, then, we would ask, create a future disturbance, when adjustment, at once, will answer? Why bother several generations with that which a single one should bear? The cost can be honestly apportioned but once, and that is at the time, when the work is planned and begun. The generations that follow have their own work to do, and to adjust *their* social relations. Why should they be per-



plexed by previous public action? which may perhaps be of no use to them, having become obsolete.

We may get a fair understanding of the effect of such an outrage on a society, by bringing before us the events that followed in several states of this Union, when their canal and turnpike building, by state credit, had broke down, and when railroads had to be built on new rules of action. Pennsylvania had a debt of forty millions, Ohio of over twenty, Indiana of over ten. There was then a double demand on the people: first, to pay these debts; second, to build the new improvements—railroads. What to do? As might be expected, society revolted against paying for the broken-down concerns, and repudiated in part. Then they borrowed more, and got poor railroads, and those heavily in debt. These were in one way or another, but generally in a mean way, thrown off afterwards, and each time by a crisis. And why? Because the State had not done its duty, and had not found the proper method for making public improvements. It had carried *discord* into society, when it owed it *concord*. The records of the courts and the numerous litigations will carry to the future historian the evidences of this low character of our then legislation! Tennessee, Alabama, Louisiana, &c., are all now going through similar perplexities; and are attempting to bring out of two mean popular dispositions one high-toned one, in which they must necessarily fail. There is but one way to have all things right, and that is to do nothing wrong.

France, with a remarkable foresight, has provided for the reversion of its railroads to the State after forty years; and thus secures to future generations these improvements free from any burthens for them except repairs and carriage. It is plain, that this simply means: that those who travel on these roads, or have goods carried thereon, during the first forty years, shall pay for them. We will not say, that this is absolutely just or unjust, but must insist, that the way we have pointed out, and which good economists have proposed, is better still. An Austrian engineer has suggested a still more ingenious method, that of allowing private capital to build and operate the roads, on condition, that the State guarantee them four per cent. interest on their investment, but that all net earnings over and above that percentage shall be taken as repayments of the sums invested. He estimates that in this wise the roads will gradually pay for themselves, and that in the end the State can either use them as a source of revenue, or have low fares, or have part of both. This plan is a great improvement on all previous suggestions, but we still think,

that the true way to do is for the State to start right, to take a comprehensive, but also close view of the whole subject and its details, and to use taxation and assessments upon principles just to all concerned. Then the construction of public improvements will be the current expense of the generation that projects them; and posterity has to carry nothing but repairs and cost of carriage for the old. It will have to pay only for any new improvements, which it may erect.

We need hardly add, in conclusion, that with every system of construction, there should be a system of repairs. France is herein also the model country. The best constructed internal improvements soon deteriorate, if not persistently kept up in the highest condition; and the poorest constructed may be brought to high efficiency by steadily mending defects. Most public administrations in America are even more amiss as to ways for restoring and repairing than they are as to original construction.

## CHAPTER XXI.

## THE PUBLIC LANDS.

"It was a characteristic error of our age, that after throwing off feudal chains, it proclaimed abstract liberty, instead of establishing institutions, that guaranteed personal freedom and harmonized social developments; for thus they unchained the struggles between individuals, that again produced unfreedom."

—Dr. Bela Weiss.

POSTERITY will hereafter put to the governments of the United States, much more pointedly than has yet been done, the trying question: *What have you done with your public lands?* And we predict, that there will not be for them even as good an excuse as "the wicked and slothful servant" offered (see Matt. xxv. 24-29) who hid his talent, when he should have let it out on increase. The plea, that they—our rulers—established no laws of primogeniture, allowed no entails, imposed no tithes, will not be accepted; for it will then be known, that, as in the case of the servant aforesaid, this negative course sprung from a mistaken presumption as to the mind of those whose wealth was being administered. The test question will be: Did you discharge the duties which your relation to these lands so plainly imposed? The 2500 millions of acres, that passed through their hands, will stand on one side of the balance-sheet, which *Time*, the most searching, scrutinizing thing on earth, will hold up; and what will there be to show for it on the other? Then, whether the governments shall be tried by the standard of duties incumbent on them as public authorities, or as proprietors, or as trustees, the fact, that at least twenty thousand millions of dollars were paid for the lands by the actual settlers to somebody, and that only about one-twentieth of that sum was public income, will then loom up into the searching inquiry: whether there was not in the process of disposal, that was adopted, a false distribution of wealth, and therefore a social oppression, equal to at least nineteen thousand millions? And it seems to us, that it will then be manifest, that the great duty to lay the best possible foundations for the new human society was not performed; that, on the contrary, social inequalities

were created. For Congress afforded opportunities for pre-purchase of lands at low prices, with a view to sell them again at higher ones; and thereby, in the language of the quotation at the head of this chapter, "struggles were unchained between individuals, that produced unfreedom."

But not only the waste and the unfreedom caused by the mode and manner in which the public lands have so far been disposed of, will stand before the eyes of coming generations, but also the record, that something quite the reverse was professed. Chancellor Kent expressed these purposes (and his words will not be forgotten) by saying years ago: "It has been uniformly a part of the land system of the United States to provide for public schools. The elevated policy of the federal government, as one of our statesmen has observed, was a noble and beautiful idea of providing wise institutions for the unborn millions of the west, of anticipating their good by a sort of parental providence, and of associating together the social and the territorial development of the people, by incorporating these provisions with the land-titles derived from the public domain." Noble ideas these! Will the reader re-peruse them, and study them word for word: for they contain in terse language exactly what should have been done through our public lands!

That they *were* in the minds of those, who framed the Ordinance of 1787, as well as those, who inaugurated the various land grants for schools, public improvements, and the manifold other objects that are spread out in congressional enactments; that they floated about in the public mind in its demand for what was called "more liberal land measures"; and that they ended at last, as a *saltum mortale*, in granting lands to actual settlers for nothing, can no more be doubted, than the fact, that in sober earnest truth these objects, as expressed by Kent, were never carried out. And why and how there was so poor an outcome to so rich a patrimony, is the paradox that deserves at our hands an earnest inquiry, even if, as some (not we) think it were true, that *fond perdue* is irrevocably written over the whole subject. A part, we think, might still be saved.

Let us first look at the general situation of the land question at the close of the revolutionary war. The British title, so far as the United States were concerned, ended, for all lands east of the Mississippi, with the treaty of peace. Two shadowy titles remained: (1), that of the Indians (2), that of the States. Both afforded opportunities to waste much foolscap in writing arguments in their favor; but we, who by this time understand their flimsiness, need not argue about them *pro* or *con*; we are



simply thankful that both have either already or are gradually passing entirely away. To us it has indeed always appeared to be a misdirection of the public mind, and a misstatement of the true issue, to discuss questions of *title* in reference to this subject ; for the turning-point was quite another issue :—that of establishing the proper authority for initiating society and the requisite political organisms on the right basis, upon these western lands. And, in our opinion, to raise the question was to answer it, because self-evidently that position could be correctly occupied only by the government of the United States. It was not a proprietary title, so much as the right to govern, that was involved ; and it—the Union—had this as the parental political organ of the new society. It has been a favorite way of some, who desired to bring this matter within the jurisprudence, which they had learned, to try to solve this, to them, anomalous problem, by creating the relations of *cestui que trust* and trustee, the People being the first, and the United States the latter ; but this only complicated the issue, because the whole thing was, as we have said, primarily a question of public government, and not of private relations. There was no society in existence that could figure as *cestui que trust*, and the United States could not be the *trustee*, because they were and must be public authority, no more and no less. The thing wanted was a public administration to carry out the reason found by a legislative body ; in other words, to enact laws and to enforce them. And that is in fact the essence of all that is right in the Ordinance of 1787, and in all subsequent federal jurisdictions and actions. Its object and subject was mainly the *future* American society ; directly first of that outside of the original thirteen states, but indirectly also of that within these bodies-politic. The statesmen who could grasp and execute this idea, in all the comprehensiveness of Kent's words, were the men for the occasion. And in saying this we express not only the gigantic nature of the task, but also pre-excuse any and all shortcomings, for it took more than genius to fulfil this idea.

If the reader will turn to vol. ii. p. 105 in Blackstone, he will there find discussed what proved the main stumbling-block in the minds of the statesmen, who had to provide measures for disposing of the public lands of the United States. They thought it necessary to liberty to reverse for America the rule there expressed, viz : “ that no subject has an *absolutum et directum dominium in dominico suo* in lands, and that the king alone hath such an allodial property.” The founders of our government wanted to establish in America the rule, that landed property shall “ be every man's own land which he possesseth

merely in his own right, without owing any rent or service to any superior." The immigrants came here detesting all *feodum*, and they could not, and did not, regard themselves fully free, as long as there was any lordship over them or their possessions. They aimed, therefore, at the highest title in England known to the laws there, that of the king, as above stated. But they overlooked sadly, that this royal title was a legal fiction invented by jurists to supply a void in their jurisprudence; which social and political science has since filled in other parts of Europe, where the civil law prevailed, by constituting the *state* (in fact *society*) the residuary owner and ruler of the soil of the country; or, if the expression is preferred: of all lands and real estate. Thus the *indefinite* supplementary conception of British jurists existed, in the law-lore of the rest of Europe, as a *definite* basis of legal reasoning; and *this*, not Blackstone's ideal title, the statesmen who had to deal with our public lands, should have made the foundation of their action. Then, instead of granting to private owners an allodial title, which never can be rightful in communities where there is proper social interhabitation, they would have retained it for American society, or, if you please, in themselves as public authority. We allow ourselves to give, as a prominent instance of the mischief of all legal conceptions, that concede to any private owner an *absolutum et directum dominium*, the fact stated by Robert Stephenson, the great engineer, that seventy millions pounds sterling—350 millions of dollars—being one-fourth of all the capital invested in railroads, were paid in England for right of way, conveyancing, &c. This is a perpetual annual servitude, equal, at four per cent., to fifteen millions of dollars. We do not know how much the same cause has increased the cost of public improvements in the United States, but estimate it at one-tenth of all sums expended, or 500 millions of dollars. We had in some states constitutional provisions, that broke in part the British rule of law, and so far it diminished the evil.

As the United States did not regard themselves as the permanent public authority of American society in reference to the public lands, they could not come to any other conclusion, except the one they did, to wit: that it was their bounden duty to disrobe themselves of all title as soon as possible, and to pass it to private ownership. There was a lingering idea, that the lands granted for schools, colleges, public improvements, &c., might be held under some sort of feudal tenures, similar to "trust funds" for various purposes in the older states; but the zest of the body of American society for allodial titles soon swept away these "legal cobwebs," as

they were called, and most of these donations have passed or are passing into absolute private ownership. The body of the land sales had that direction from the first; and we meet accordingly in state papers, in stump speeches, and editorials, numerous self-congratulations, that America had, for the first time in the world, a free society. And yet it was far from being true; on the contrary, there were every day sales and rentings of lands, which contained uses of the social power given by Congress to those who originally purchased land of it. These landowners were living and growing rich off a society to which they had rendered *no service* whatever.

Let us test this assertion at the hands of a few statistics taken from a state—*Indiana*—whose lands once belonged entirely to the United States. It contains (see Land Office Report, 1876, page 186) 21,637,260 acres. The United States have received not quite twenty millions of dollars for them. There were, in 1850, according to the census tables (not counting improvements), farming lands in Indiana, that had a value of one hundred and thirty-six millions; in 1860 these had risen to four hundred and nine millions, and in 1870 to six hundred and thirty-five millions. How much of these sums is due to personal industry and thrift, and how much was caused by general, social, and political development, cannot be accurately ascertained. Nor have any data been accessible to us, so as to determine exactly what sums have been paid by second to first, by third to second, &c., purchasers; but we think that estimating these several items at one-third of the increase, and we have by 1820—

As effects of social and political causes,	. . .	\$212,000,000
As effects of personal betterments,	. . .	423,000,000

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Or total, . . . \$635,000,000

Deduct from the two hundred and twelve millions the twenty millions paid to the federal government, and it leaves one hundred and ninety-two millions, which, in our opinion, constitute the amount of social advantage, which the United States conferred (*gratis* and recklessly) on those, who bought of them lands with a view to higher prices. *They* were to this extent drones on the new society, and hinderers of its healthy development. The money paid to them should have gone into public, not into private wealth. It should have accrued to common benefit, and not gone in aid of individual riches; in short, in the new society the factors of its prosperity should, as persons, have started in an even race; and it was wrong to give,

under mistaken legal conceptions, one part—the purchasers from Congress—an advantage over the men, that had to buy of them.

We think, that if the reader will do as to other states what we did as to Indiana, it will aid him in coming to a full understanding on this point. We pictured to ourselves the state of Indiana and its people as things would be, if the one hundred and ninety-two millions had been administered by a sagacious as well as honest public authority; and we found that there might have been built with this money, one thousand miles of canal, some two thousand miles of slack-water navigation, both with artificial water-powers, and costing say twenty millions, then four thousand miles of turnpikes, costing some twenty millions, and three thousand miles of railroads, costing ninety millions, then spent ten millions for schoolhouses, a like sum in colleges, technical schools, and one state university; and it would still leave forty millions for state and county buildings, quite sufficient for the purpose. This kind of Indiana would pay for passengers and freight fifty cents where it now pays a dollar, the same as to tolls on canals and turnpikes. It would pay fewer taxes—say twenty cents where now one hundred are paid. Would not such a society be as free, as the human mind could conceive?

Compare now Indiana *as it is*, with this picture of our imagination. Deeply in debt for all its public improvements, institutions, buildings, borrowing money even for schoolhouses; high taxes, and freight and passenger rates; great social disparities, largely a body of renters, in the cities at least; and tell us: whether its society is free?

We admit, the comparison is as to the first statement a fancy sketch, but not all fancy! We think it the right method, practically attainable now for all unsold western lands; and, of course, believe it would have been still more feasible in 1787 for the north-western territory. Why should not the United States have received, all that was received, by first purchasers from second? Why could not the United States have used its military cadets for constructing public works? Why did not the United States retain the *absolutum dominium*, that was conferred upon it under high patriotic impulses? Should it not have retained it, if only as additional to its constitutional powers over inter-state commerce, and with a view to perfecting its true relations to American society?

We do not presume, that we could draw up a plan in detail for this purpose, but may be pardoned for giving it as our opinion: that not an acre of public lands should ever have been sold for less than ten dollars an acre; that this sum should



have been payable in twenty annual instalments of fifty cents per acre; that the lands should have been sold only to actual settlers, who, or their heirs, would remain the twenty years. We think besides: that all but ten per cent. of these proceeds should have been expended by the United States, in public improvements, and these should, as soon as completed, have become the public property of the society or state, from which the money was derived, on condition, that either no charge shall be made for their use, or, in case of roads and canals, only enough to cover maintenance and repair. Every land sale should have been made subject to the *absolutum et directum dominium* of the United States, with reservations for right of way and for sanitary purposes. There should have been no grants of *lands* for schools or anything else, but a liberal turning over of the proceeds for the varied public purposes of a new society; because not only the body-politic should be rich and free, but so also the citizens composing it. Public and private wealth should ever be in proper relations to each other; and wealth generally ought to be so far as attainable, as between individuals, in due proportions. By the latter we mean simply, that government shall not afford opportunities for social spoliation. Then American society would have much less of its great social blemish, an excessive desire for riches gained by speculations off each other.

Indiana (the state selected for our illustration) owed in 1846, \$14,374,640, which sum was a debt created for a system of internal improvements, chiefly canals. The result of this debt-going policy was, that between 1847 and 1851 the state went through an arrangement with its public creditors, that was a sort of semi-repudiation. In 1839-40 the state had also issued one and a half millions of treasury notes in direct violation of the Constitution of the United States, and by 1851 it had by legislation authorized the construction of numerous turnpikes and some railroads by private capital, whose amount we have not been able to ascertain, but amounting at least to a hundred millions, of which sum two-thirds was borrowed capital. While Indiana was thus going in debt as a state, by counties, cities, and corporations for public improvements, the United States were running up a surplus revenue from the proceeds of excessive land speculations, and got into trouble with banks, had suspension of specie payments, but refused to undertake any internal improvements. At the same time there was a body of land speculators and lot-holders that were holding much of the real estate of the country for a rise. They were growing disproportionately wealthy as compared to the rest of their fellow-citizens,

and, with few exceptions, refused to invest their means in public improvements. The millions on the duplicate were largely a dead weight on society, while, if they, or rather a part of them, had been paid to government, and it had expended the sum for improvements, it would have been a lever in enhancing human existence. Need we expatiate further to show the wrongs engendered by the course pursued?

And the source of this mistaken direction sprang not only legally, but also economically, from ancestral habits. National road-building and similar public undertakings were never a part of the objects and policy of the British realm. And it filled only casually the thoughts of Americans before the revolution. They could not indeed do so nationally until the Union was established and it had public lands. The topography of the British (England, Scotland, Wales, and Ireland) were insular. The interior of each had near seaports, and needed but short roads to them, which the shires could build. The realm might project a national road from London to Edinburgh, after Scotland was united with it; but not before 1745, or the final peace. It was a little after that, that Franklin's mind took up the subject of a national American Union, and a general public land policy. But neither he nor any British minister ever suggested a common road policy for united America. Earl of *Stair* came nearest in 1723-24 when he suggested, that "the assemblies of the several colonies may agree to lay the same duties and apply them to the general defence and security of all the colonies, and that they needed no Act of Parliament for such a step." Perhaps a similar decision would, had he thought of it, have been come to as to public lands and a general road policy. Franklin suggested something of that nature at Albany in 1754. But we do not find in the land grants to the princes of the blood, nor in those to Penn by Charles II., or to Raleigh by Elizabeth, nor in that to the merchants of London and Plymouth (hence the name Plymouth Rock), any allusion to or recognition of the public duty to supply the respective colonies with roads or canals, and of course less yet of any such inter-colonial duty. The respective English administration or its royal personages had only one idea, and that was, to induce people to migrate to America, and to trust to their pursuit of happiness for the development of wealth and commercial intercourse. Indeed, we must say right here, that we have ever doubted the strict truthfulness of the accusation in the Declaration of Independence, that the British Crown had "endeavoured to prevent the population of these states, and refused to encourage migration hither, and raising the conditions of new appropriations of land." A very different accusation,

one much truer, could have been preferred, viz : that of enticing immigrants, by reckless land grants, to great hardships, and to early hospitable graves. The courts and cabinets of Europe began the profligate waste of the public domain; our governments continued it. No one held: that American society's best interests did *not* lie in lands underpriced, but in lands made more valuable by wise public action.

The truth must also be stated here, that the British mind never was national as to social matters, such as schools, public improvements, real estate and property generally. Great Britain has indeed never had a clear-minded national spirit or ethical development. It has been and is national only as to foreign affairs and conquests. But even that national common feeling was never active in the colonies, that formed afterwards the United States. That British kings, queens, and statesmen should think of lands in America only as abodes for populations, who were to increase British home power; but help themselves to houses, homes, clearings, schools, churches, and means of intercommunication, was therefore to be expected; for neglect of the social wants of the new society is the inherent spirit of all colonial policy. But that American public men, to whom America was not only a land, but also a home and a higher life, should have had the same short-sighted land and public improvement policy, is hard to explain. We think we have given one reason, to wit: the habitual British-American way of thinking of provisions for highways. This ancestral habit confronted the few American minds, that had taken in a wider scope on these subjects, and it obtruded its narrow-mindedness in many ways. Many a grand conception was either entirely smothered or vitally curtailed from fear of it. Franklin's plan for the settlements of the west, submitted in 1754 at Albany, had a rather comprehensive land policy, but no system of roads and highways. He speaks indeed of local self-government, and doubtless included in it public improvements; but for national public works there is no provision, either in his plan of western settlements, nor in that for a Union government. As postmaster-general he often thought of such things, and speaks of them in his letters; but, as he never entered the public administration, under the new Constitution, he never impressed them on the conduct of our government. We regard this fact as a great loss to America.

We might suppose, that, after the revolution, the people would, amidst their many *continental* aspirations, also take up the conception that they had the society of a continent to form, and that the basis thereof was in their hands in the public

lands. But we look in vain, in the public records, for any decided elevation of the moral tone on these points, as compared with the former colonial policy. The states quarrelled on as to their western limits; but not one of them had any higher aim, than increasing revenues and more political power. The amounts of these revenues were ridiculously small, when we take the fuss made about them into account. And the political power was sought so mechanically and indecently, as to take from their public conduct all ethical objects. Virginia had laid, by her system of land sales, false social foundations in Kentucky and in one-third of Ohio; North Carolina had done the same thing in the larger part of Tennessee and South Carolina. And Georgia would have repeated this for Alabama and Mississippi, if the presence of the best North American Indians, the Cherokees, on their western borders, had not prevented it.

Obviously, then, the thing to be done was: to rescue all unsold public lands from state control, and to place them with authorities, that would think of the long future of American society from high ethical (national) standpoints. But this object is, as we have stated, not visible in the disputes which, to settle, the respective states were asked to quit claim the lands to the general government. The states of Maryland, Delaware, New Jersey, &c., who demanded this surrender, only took this mode as the way for obtaining an indirect share in the proceeds of the sales, since without it they would have been not only cut out of the lands, but also of the proceeds. After the deeds of cession were executed, and Congress came to consider its rights and duties in the premises, then came, as a result of the higher, larger, and wider sphere they had before them, the stray ethical (national) objects, which we find enacted in the Ordinance of 1787. In 1780 yet, as can be seen in the resolution of 10th October, the sole purposes were the disposition of the lands (evidently sales) for the common benefit of the United States, the formation of new states, and the reimbursement of expenses incurred by the states in the respective territories. Common benefit meant, that the proceeds shall go into the common (not state) treasury. The considerations were still mainly pecuniary, and the exercise of plenary law-making powers were still only morning dreams of a few minds like those of Dane and Jefferson. Franklin's mind had gone to sleep again after his plan of settlement had been dropped, and he was out of the administration of public affairs.

The Ordinance of 1787, its legislative provisions and social regulations, would have had deeper soil and stronger roots if they had rested on a well-formed *national* will. American



society did not participate in it as an entirety, and hence it applied only to the north-western territories, and left the south-west to other local public desires. It was really a fatal division of the land question so far as it was acted on at all; but in all vital points it was not even considered in that light. Forty years afterwards Jackson expresses the objects that had hold of the public mind in one of his earlier messages. He congratulates the country "on the bright prospects of increasing wealth and growing power of the new states," and advises that "the true policy of the new states consists in the rapid settlement and improvement of the waste lands in their limits." But by settlement and improvement he meant only a raw inflow of population and individual family betterments, unaided by federal legislation and public works. He insisted, "that the public lands should cease, as soon as practicable, to be a source of revenue, except for the payment of general charges, which grew out of the acquisition of the lands, their survey and sale." And he adds: "I do not doubt that it is the real interest of each and all the states, that the price of the lands shall be reduced and graduated; and that after they have been offered for a certain number of years, the refuse remaining unsold shall be abandoned to the states, and the machinery of our land system withdrawn."

Exactly! The "*machinery!*" for that is all it ever was; it never had any polity in it! Even as a revenue system it was lame finance. The true price that should be asked was never fully inquired into; nor were the high obligations, inherent in the trust assumed, ever thoughtfully considered. The whole thing was treated as a transitory matter, in which the axiom "Least done is easiest mended" was the leading idea. There was therefore no moral tone in it, for that exists only when the long future and the permanent welfare of society is thought of. The men in power, therefore, took their own "think-and-do-nothing" conduct as the basis of their reflections, and arrived at the very natural conclusion, that a government thus void of policy and action had no right to the lands, that it should pass them, the sooner the better, to individual ownership, if wanted, and if not, to that of the states.

We must admit, that the situation was such, as to mislead most minds. Here were new states, whose society was rapidly augmenting in wealth and power, without, or with but little government help; and all that seemed to be necessary, to accelerate the augmentation, was cheaper and cheaper government land prices. That the actual settlers got the benefit of this cheapening process in but a few cases, and that it accrued

chiefly to speculators in lands, who obtained double and treble the Congress price, was singularly overlooked. Nevertheless, it was a notorious fact. It was not seen, because the higher prices paid to the speculators did not stop immigration until they reached ten dollars. The census tables show, that Ohio increased in population—

Between 1800 and 1810, five fold.			
„	1810	„	1820, two and a half fold.
„	1820	„	1830, one and three-quarter fold.
„	1830	„	1840, two-third fold.
„	1840	„	1850, one-third „
„	1850	„	1860, one-fifth „
„	1860	„	1870, one-tenth „

This gradual *decrease* in populatory growth corresponds exactly to the increase in the price of wild lands. Up to ten dollars per acre, with near markets, the effect was light; but when it reached twenty dollars and more, it was plainly visible in the census tables. A similar cause operated in cities and towns; there the inflow slackened with higher prices for lots. The exceptions are those localities where, in pursuance of special causes such as exceptional facilities for earnings or profits, as in Cleveland, Columbus, and Cincinnati, immigration and permanent settlement was specially attracted. High social enjoyments and advantages through free schools, parks, markets, streets, pavements, and cheap amusements, also induced persons to come to them and to stay.

We beg the reader to fix his mind well on the causes of this general declining ratio in the increase of population, but also on those, that produced a renewal of the increase in particular localities; and we think it will be clear to him, that if the United States had so arranged its land sales, that nine-tenths of the prices had been expended in public improvements, there would have been a never-declining inflow of population, and but little after *e*-migration. The natural fertility of the lands, their salubriousness and location, would have attracted settlers at ten dollars per acre, payable in twenty annual instalments; and the improvements made with nine dollars thereof, if properly distributed into national, state, county, and local works, would have proved an even superior attraction. Their value would have appeared in still higher prices for farms and town sites. The society thus developed would have been self-sustaining and self-growing from the start, and its prosperity would never have been clogged, by artificially-created, social inequalities.

Let us look a little at the public land sales of Ohio, and we will understand this even more fully. Up to 1801: 4,862,287

acres had been sold, and every year thereafter up to 1810 about 100,000 acres. This makes a total sale of about six millions of acres in the first ten years, or about 60,000 acres average per year. There were about eight millions locked up in the Virginia military reservation. Ohio started therefore in 1802 with about fifteen millions of acres in the hands of private owners, and these fifteen millions were purchased, by second-hand buyers, at about ten dollars per acre. By 1810 immigration was retarded, because there were social disparities, caused by artificial, unequally-distributed wealth. Every new comer had to pay towards this to those who had preceded him; and he must dislike this, for it was undeserved. Had there been no such middle men, and his payments would have been on equal terms, so far as the government is concerned; he would never pay anything, to anybody, for nothing.

Between 1810 and 1820 there were sold about four millions of acres, of which 794,821 acres were sold in 1814, the cause of the then speculative purchase being a suspended paper circulation. The annual absorption of lands continued at about 60,000 acres a year up to 1836, when, in consequence of the pet bank deposit system, the sales rose to 1,365,282 acres. By 1840 there were in Ohio about twenty millions of acres, including lands in the Virginia and Connecticut reservations, in second and third hands. For these

The United States got some twelve millions.

Connecticut, about one and a half.

Virginia, little or nothing—perhaps a quarter of a million.

Land speculators about 125 millions!

Under *our* system the United States would have got 200 millions, and returned 180 millions in public improvements to the people, that paid them.

We may be told, that Ohio would not now have two and three quarter millions of people under our plan. We deny it, and assert that there would actually be more population, and it on a much better social basis; for Ohio would have received all the immigration it did receive, but there would have been much less, if any, *e*-migration.

When we extend our calculations to the entire body of lands in the United States and territories, it brings out the want of true economy in the public land administration still more glaringly.

There were in the original thirteen states	218,723,840	acres.
" " " states since formed	1,137,662,797	"
" are in the territories . . .	969,494,770	"
	<hr/>	
	2,325,881,407	"
		2 B

These 2300 millions of acres represent in dollars the following amounts of either past or prospective misdirection of wealth :—

Wasted and misdistributed by Great Britain, France, Spain, Mexico, and Colonies, . . .	\$2,500,000,000
Wasted and misdistributed by United States since 1787, . . . . .	9,000,000,000
Estimated waste and misdirection in territories,	8,000,000,000

Or a total of waste and misdirection of \$19,500,000,000

Enough money to pay for all the railroads, canals, turnpikes, improved river navigation, bridges, including the Hoosac tunnel, that under the Alleghanies in Virginia, the court-houses, post-office buildings, &c., needed in the Union.

What a country this would have been with a wise land policy! What an array of political hairsplitting it took to keep the United States to doing nothing! What an amount of social unfreedom, the unwise policy that was pursued, has created in American society! What sums have been borrowed and lost by the states, counties, and cities, through the false financiering thus forced upon them! What a mass of private wealth has been sunk in railroad, turnpike, canal, bridge, and other corporations! In railroads alone the sum lost is over 2400 millions!

The thing to do was to find the price, that would attract the *bona fide* actual settler, but *not* tempt the speculator. That price could easily have been found by statisticians in Pennsylvania, Virginia, and other states, either in the rates still paid there for wild lands by immigrants, or the rates paid by residents, without producing emigration. And that price would, we think, have been found to be \$10 per acre; and if it had been made payable in instalments, and coupled with the benefices already explained, viz: a government protecting against the Indians, with roads, schools, accurate surveys, regular records, &c.; in short, with all things, which individuals cannot singly and of themselves alone accomplish, and we think this price would cheerfully have been paid. And whoever would not do so, was not the person wanted. Nothing would, under this policy, be given gratis; nor would any payment be made for objects or to persons on questionable or downright unjust grounds. The proceeds would go for the land, the recouping of federal expenses, and for founding a permanently civilized society. The immigrant would not have been either the ward nor the spoiled child of the Union, but be treated like a full-grown, self-supporting, energetic person, that understands what he can and ought to do, and what he cannot and should not do, and who therefore asks nothing of government except



the discharge of its duty as owner, trustee, or ruler over the lands in question. A citizen thus treated would be willing and anxious for good public administrations, and readily pay for their cost ; because the benefits derived from them would be so obvious. But they would be more to him, since he could not fail to see, that they acted from correct public standpoints. There would have been no middle men like Penn's heirs, Symmes, General Wilkinson, Dayton, Cleveland, Zane, Cass, Piatt, Burnett, or whatever be their names. So also would there have been no railroad land grants, and yet railroads earlier and better. Why should government deal indirectly with its citizens ? Are not the lands the land ? Is not the soil the country ? Are they not the foundations of society ? Not of society of the past, or of the present alone, but of society for ever ?

There was always an indecent haste in the action of our government in reference to these public lands, and this is the more remarkable, when we recall to mind the extreme solicitude with which the fathers sought to get them away from State control. The *old* confederate Congress resolved, September 6, 1780: "It appears advisable to press upon those states, which can remove the embarrassments respecting the western country, a liberal surrender of a portion of their territorial claims, since they cannot be preserved entire without endangering the stability of the general confederacy ; to remind them how indispensably necessary it is to establish the federal Union on a fixed and permanent basis, and on principles acceptable to all its respective members ; how essential to public credit and confidence, to the support of the army, to the vigor of our councils."

And again: "That it be earnestly recommended to those states, who have claims to the western country, to pass such laws, and give their delegates in Congress such powers, as may effectually remove the only obstacle to a final ratification of the Articles of Confederation."

Was not all this a pitiful farce, if these lands were to be simply taken from the states, assigned to the federal government, and then by it to be re-assigned to states, or to middle men, or to corporations, or to land speculators, each of whom was to administer them in their own way, and for their own objects ? The series of patriotic measures, that led in the end to the Ordinance of 1787 and the national Constitution, were child's play, if their object was not to bring the public lands within a uniform, wise, national policy, and a superior administration.

Why? if it were best to let the states and their people have the lands as quickly as possible, were they ever taken from the states? Virginia had fooled away her own soil, and that of Kentucky, upon surveys and records, that were defensible in the time of Hengist and Horsa, but were a disgrace to civilized governments in the eighteenth century. They have given rise to endless lawsuits, and to-day the only real reliable title in both states is undenied possession, capable of being proven for the length of time required by the statute of limitations. Some seven millions of acres were cursed, by that land system, in Ohio. It was the continuance of the royal British method, which, in its consequences, is the best evidence that the British royal family was not fit to rule America. No potentate that is careless of the lands he attempts to rule over, is fit to govern a country! We say, then, it was a bootless agitation to get the public lands away from the states, if their disposition was to be carried on in the same hasty and wasteful manner. It *was* right and wise to make them the common property of the whole Union; if a superior method of survey and sale would thereby have been inaugurated, and the errors of the old British methods, which led to such troubles with the proprietary interests in Pennsylvania, North and South Carolina, and other colonies, had been avoided. The United States *did* improve the surveys, and the States the records of titles; the Union also extinguished the Indian title, and gave uniformity of administration; and so far it did well, but in all other respects it proved sadly deficient. Why take from individuals the right to buy lands of the Indians, if the British government and the United States were to be mere mediums for their re-sale?

That the subject never received the practical and technical consideration it deserved, is in great part due to the presupposition, that the disposition of the public lands was a *temporary* function of the federal government. The fingers of Congress seemed fairly to itch, to get rid of the public lands; and Jackson expressed but a deep-rooted public feeling when he said: "I am fully sensible of the importance, as it respects both the harmony and union of the states, of making, as soon as circumstances will permit it, a proper and final disposition of the whole subject of the public lands." Queer people! *First*, it was essential to union to make the public lands *common property*; then, not quite fifty years afterwards, it is important to harmony and union to finally dispose of them! We venture the opinion, that the trouble, Jackson and his predecessors wanted to be rid of, were not the lands, but the task of having a full, deliberate, and squarely honest and wise consideration of

the subject, in the presence of an eternally voting people. In 1780 the immediate purpose was to avoid a conflict with states, who grasped lands, not their own; in 1833 the troublesome issue was how to keep out of similar covetous clutches the proceeds of the sales of public lands. To prevent a misdirection of public money was Jackson's leading motive. He penned for that object his veto message of Clay's land bill, December 4, 1833. We agree with him in his opposition to giving the states the proceeds of the sales of the public lands; but hold: that, beyond expenses incurred and repayment of the revolutionary debt, they should have been expended for roads, &c., in the states from whose people they came. And these expenditures should have been administered through United States officers that had a military and engineering education, upon a policy to be determined by Congress. Not a temporary, disjointed policy and administration was wanted; on the contrary, both should have been based on permanent national policies.

The General Assembly of the state of Maryland was the only public body, that looked at the subject in its general bearings, and they announced, in their instructions to their delegates in Congress in 1779, the following axioms: "Lands comparatively cheap, and taxes comparatively low, with the lands and taxes of an adjacent state, would quickly drain the state, thus disadvantageously circumstanced, of its most useful inhabitants; its wealth and its consequence in the scale of the confederate states, would sink of course."

We see here that one object of drawing the western lands, out of the hands of the states, was to prevent a competition between them in forcing sales of their respective lands for the purpose of gaining political power. The lands were being squandered by gifts and sales at about ten cents an acre, and this drained the eastern states of population and productive wealth; and against this, New Jersey, Maryland, and other states protested. Their protests brought a partial relinquishment of these unfounded claims; but Congress failed to change the old course as radically as it should have done. It raised the price to \$2 per acre, and the money went to no rival state, but to the federal treasury. It also provided better surveys, and through them more certainty of title, but that was all, and clearly not enough.

Maryland stated a truth, when it pointed out, that the growth of new countries is at the expense of the states emigrated from; and it was right in asking the western lands to be removed from jurisdictions, that wasted these lands in their narrow pursuit of an extension of their special power and wealth. So it was correct

political economy to bring their disposition under a public will, that would administer the trust from national standpoints. Maryland was also sagacious in understanding early, and ever acting on it, that there was an outcome, to the East, in the national settlement of the west; provided there were good means of intercommunication between the new states and the old. But it was not right in persuading Congress to act on the Baltimore theory, that Chesapeake Bay was the best and *only* out and inlet for western trade, and that canals and artificial highways should be constructed with federal money upon *that* basis. The sales of the public lands should have been used to pay the revolutionary debts, but a part should at once have been devoted to the other objects expressed in the deeds of cession, to wit: "the common benefit of the United States." So far as the price, asked for the lands, was a reimbursement of expenses incurred by the old states, it was proper to use the proceeds for objects of common benefit to the whole Union, but not Maryland alone; and there is certainly nothing so clearly of common benefit as thoroughfares of a true national type. But a good part of the price asked for should, after discharging the inherent functions of government for the new states and their society, have been strictly applied to internal improvements, that would aid intercommunication as nearly as possible with the locality from which the income was derived. In the expenditures for the old states, the direct benefit would have been to them, and the indirect to the new states; and in the other outlays the relation would have been reversed; but in neither case should any work be constructed that had not a national character. Chesapeake Bay was *one* of that kind, but not the only one.

In this way it would have been understood, that buying public lands was paying into the public treasury moneys for a specific, yet common purpose; and, like all taxes, the popular mind would have regarded them as so much contribution from private wealth towards the creation of public wealth, whose benefits were to be open to all. These would re-express themselves on the real estate of the country, and there would be few speculative purchases. The demand for public lands would be tempered by the public considerations named, and the sales would proceed in even progress, and not by fits and starts as under the old way. There would therefore be no money crises from this cause, as there were between 1816-20 and 1836-41.

We may see this, as already suggested, in the ups and downs of the land sales, and the fact, that large receipts from them always produced financial crises and severe sufferings in busi-



ness. Between 1813 and 1819 there were sold in Ohio alone 3,110,964 acres of land, of which the actual settlers took only about 600,000, so that 2,500,000 acres were bought on speculation, which locked up for Ohio, at the then prices of the public lands, \$5,000,000, and the consequence was the moneyed crisis of 1819-21. The banks were full of the notes of land speculators.

During the years 1831 to 1836, both inclusive, 4,051,435 acres were sold in Ohio, which was at least three millions in excess of the demands of actual settlers, and there were therefore speculatively invested four millions of dollars at the very time when the State was borrowing from foreigners on bonds at a discount. The State had expended \$5,356,150 in canals, and borrowed for them about four millions. The crisis of 1837 followed; for the *whole* country had been speculating in lands, the amount sold being—

In 1833,	.	.	3,856,227 acres for	\$4,972,284
1834,	.	.	4,658,218	„ 6,099,981
1835,	.	.	12,564,478	„ 15,999,804
1836,	.	.	20,074,870	„ 25,167,833
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Total,	.	.	41,153,793	\$52,239,902

And the outcome of these abnormal land sales was a moneyed crisis in the spring of 1837, followed by a suspension of specie payments, and yet a surplus of nearly forty millions in the United States treasury. The Union survived such fiscal blundering through immigration, which then as before, and for years afterwards, acted as the Lethe stream, that saved the memories of those whose lack of statesmanship brought on the evils. The query has been asked, whether such a sponge on past errors is a blessing or a curse to a people? The answer will have to vary. It was certainly a relief to the generation whose existence would have been blighted, if there had been no or small immigration; but it is equally certain, that it is a serious evil to a society, if it is without early reactions from within itself against the errors of its political rulers; because it is then without correct financial warnings, and is apt to think itself *well*, when in fact it is *diseased*.

We do not wish to strain any point against the land policy of the United States, and will not therefore charge upon it *all* the unsettledness and consequent wastefulness of western husbandry; but we must attribute to it the grosser outgrowths of it. Had the United States not absolutely encouraged land speculation, and it would never have become a common passion. And had they so sold lands, as to make permanent

residence the ruling motive in the minds of settlers, and the migratory disposition would have been lessened, and a very different land economy would have prevailed. The United States seemed to be never so well pleased, as when they supplied the land-sharks with plenty of acres for barter and sale. But we are free to say, that, if this is right, it had been better to have left the lands with the States, for they were experts in that business, as they have shown lately again in disposing of the lands granted them for agricultural colleges.

The census of 1850 showed, that of near 300 millions of farming lands in thirty-two states, but 113 millions were cultivated. The proportion of cultivable to cultivated lands in Europe is—

In Great Britain, of 61½ millions of acres there are cultivated 46½ millions.					
France,	121	"	"	83	"
Prussia,	68½	"	"	39½	"
Austria,	173½	"	"	138½	"

Had the country been well opened by roads, and the proportion would have been like these.

Consider next the wastefulness and impoverishing of the soil that must exist where everybody holds his farm for sale. Who does not see, that with a different land policy, the original disposition of many immigrants would have been much modified, and their economy improved? Man never values a thing fully, that is offered him gratis or below its fair value.

Will the reader now please recall to mind Chancellor Kent's words, as quoted at the beginning of this chapter, and then run over mentally the real outcome of the policy therein portrayed? Was there really an "elevated policy"? Did the United States Government "provide wise institutions for the unborn millions of the west"? Did it incorporate any "sound legal rules as to real property with land titles"? Sect. 16—the one donated for school purposes—was in nearly every case a mismanaged piece of land; we might say, it was generally a briar patch; full of weeds with poor fences, seldom and little manured, and unfertilized much faster than surrounding lands. The rents were not always collected, and often used up in repairs. The States ordered their sale early to save them from township mismanagement. Some few brought fair prices, most of them were sold low. The proceeds have been put into the State treasuries, and bear six per cent.; at least that is the method in Ohio. It shows, that a "beautiful idea," as Kent expresses it, may be an ugly reality. The mistake was to

donate lands that were sure to be maladministered by the local authorities. The idea had the same wrong principle in it, which was in the land endowments for churches and other special organizations. It has worked evil in every country where it was tried, and it has been saved from its worser consequences in the United States, because the lands have gone largely into the hands of actual settlers. If retained till now it would have been a public nuisance.

Very near fifty millions of acres of public lands have been donated for public schools,<sup>1</sup> and millions more for colleges and universities (*sic*!). We do not object to the principle, that the United States should have and shall use the public lands with what Kent calls "a noble and beautiful idea;" nor is the thought obnoxious to us, that the United States shall be the organism for "providing wise institutions for the unborn millions of the west," and anchoring them in land titles, or, as European jurists would say: in correct rules of action as to rights of property. When the General Government shall have passed the last acre from its ownership (in common for all) to the absolute proprietorship of persons and corporations, then will go up one long sigh over lost opportunities as to near 2500 millions of acres of land, enough for the subsistence of 500 millions of people. What we except to is: the blind fatuity with which they ignored the lesson of all human history—that possessions *versus* no possessions; or the advantages the first have over earnings by labor and trade, are the angling points around which social and political conflicts play. The United States could not have prevented them altogether, but they should not have *created* them by negligent political action. Nor should they have ignored the lessons of all human history, that the forms and wants of social life change, and with them the modes and desires for acquiring property. The people of the United States were ever land-hungry, but never economic in its use. It was the duty of the national administration to abstain from encouraging false appetites, and to supply economic considerations and methods. But it did the reverse; it gave opportunities for land-gambling, and it was uneconomic itself. It therefore produced a self-disintegrating society, when it should have made it a settled integral population. There could, consequently, be no proper ethical development and no stability in social life.

Before we conclude this chapter we must, if only as a re-

<sup>1</sup> An extensive traveller in the United States once said in our hearing in Glasgow, Scotland, when an American was boasting of our common school system: "Yes! 'Tis true; nothing is so visible in the United States as *common* school education!"

miniscence, produce a few passages from Franklin's writings. He says, in reply to an inquiry, as to the chances of an emigrant to the American States, in 1780:—

“With regard to encouragements for strangers from American governments, they are really only what are derived from good laws and liberty. Strangers are welcome, because there is room enough for them all. . . . Government does not at present, whatever it may have done in former times, hire people to become settlers, by paying their passage, giving land, negroes, utensils, stock, or any other kind of emolument whatsoever; in short, America is the land of labor.” . . . “Land being cheap, from the vast forests still void of inhabitants, and not likely to be occupied in an age to come, insomuch that the property of a hundred acres of fertile soil, full of wood, may be obtained near the frontiers in many places for eight or ten guineas (forty to fifty dollars), hearty young laboring men, who understand the husbandry of corn and cattle, which is nearly the same in that country as in Europe, may easily establish themselves there. A little money, saved of the good wages they receive there, while they work for others, enables them to buy the land and begin their plantation.” . . . “The writer of this has known several instances of large tracts of land bought on what was then the frontiers of Pennsylvania for ten pounds per hundred acres, which, after twenty years, when the settlement had been extended far beyond them, sold readily without improvement for three pounds per acre.”

“Many persons have proposed to go over on condition of having their passages paid, lands given, salaries appointed, exclusive privileges for a term of years, &c. Such persons, on reading the Articles of Confederation, will find, that the Congress have no power committed to them, or money put in their hands, for such purposes, and that if any such encouragement is given, it must be by the government of some separate state. This, however, has been rarely done in America; and when it has been done, has rarely succeeded. . . . Poor persons working for small wages are to be found in Europe, but will not be found in America, till all the lands are taken up and cultivated, and the excess of people, who cannot get land, want employment.”

Franklin had obviously no objection to cheap land prices for actual settlers, but he was opposed to hiring folks to settle by giving them lands, &c. He foresaw, that the economic reaction of American society upon itself would not take effect, as long as lands were open for settlement. The consequences of allowing land purchases on speculation, and thus affording opportunities to make fortunes by raising the price of land for actual



settlers, he seems neither to have fully considered, nor reflected upon. He speaks in another part of the same essay of men who are mere *fruges consumere nati*, or, as Watts has it—

“ . . . men born  
Merely to eat up corn ; ”

“ and,” Franklin adds, “ otherwise good for nothing, till by their deaths their estates, like the carcass of the negro’s gentleman hog,<sup>1</sup> come to be *cut up*.” The philosopher of America regarded such men a remote probability in his country ; yet to our personal knowledge they were bred largely, within fifty years of his essay, through land speculations, and they have obstructed America’s true development to a great extent. He would be astounded were he to come back to-day.

How long a superficial view of a public question may sway public judgment may be seen from the speech made by Governor Hubbard, of Texas, at the *Centennial* in Philadelphia. He said :—

“ It has always been the policy of Texas to encourage a liberal system of education. Early in the history of the republic, in 1836, there was ample provision made for common schools and for one great state university. Of our public domain there has been surveyed and set apart, more than a quarter of a century ago, for a state university, 221,400 acres ; for each county in the state, 17,712 acres. We have 168 organized counties, thus giving to the counties for free schools over twenty millions of acres. The older counties located their lands years ago, and they are now in the settled sections of the state, and worth \$3, 50c. per acre, or \$61,992 to each county. At present rates, the university lands, at the same figures, are worth the princely sum of \$749,000. In a few more years this splendid endowment, made by the early patriots of Texas, will become millions of dollars.”

“ In addition to this, each alternate section granted to railroads is reserved for the school fund, and, by the present Constitution, one-half of all the public lands, and one-fourth of all the general revenues, are solemnly set apart for a perpetual fund for common free schools for the children of Texas. The number of acres of our public school lands will now approximate twenty million acres—worth over thirty millions of dollars. By the late Constitutional Convention of Texas, there has, in addition, been granted to the university one million more of acres of the

[<sup>1</sup>] This relates to an anecdote he loved to tell of a negro, who said : “ Bocarrora (white man) make de black man workee, make de horse workee, make de ox workee, make ebery ting workee, only not de hog.”

public lands. Under wise legislation, our unrivalled school fund will furnish a basis for the free education of every child in Texas. She dispenses this bounty in no spirit of caste, party, or section. All races may bring their children to drink at this fountain."

Here is one of the better state governors actually bragging of the magnificent wastefulness of his state! He calls a thing a "fountain" that is a cask wasting at the spigot, as well as at the bung-hole, and leaky generally! He talks of "wise legislation," when really nothing is done except a fine opportunity thrown away. Had Texas kept her 175 million acres of land to herself, when annexed to the Union, and she might in time have realized 1750 million dollars from them, and built the railroads herself, for which she is now borrowing money in all kinds of slipshod ways, and is even now importuning the federal government for interest guarantees. The governor's boasting over the fact, that Texas is the most unwise of all the governments that have had to deal with large public domains in modern times, and that she is still pursuing an error begun 250 years previous, in the colonial misconduct of European rulers, reminds us of an instance of the length of time which wrong-doing may keep hold of men's minds, when it is not critically inquired into. We refer to the plaudits still paid to the course pursued by Joseph in the Egyptian famine. Surely he only abused his power, when he changed the freeholds of the people into feudal tenures, subject to one-fifth of all the products of the lands as rent. For three millenniums has this perfidious "opposite extreme of our way of treating the lands of a people" been extolled as great financial wisdom and statesmanship. It may well be used as an argument, that we should be lenient on the thoughtless procedures in America, that have only had a run of 250 years!

Looking back, then, over the whole field, it seems obvious to us, that wild lands at low prices without the organisms, methods, and measures, which civilized governments owe to their people, such as good means of intercommunication, is not only offering them a poor chance, but is the very least that can be expected. On the other hand, we hold, that tendering to folks lands on even high terms of payment, if they include provisions for an enhancing and civilizing human existence, and the means for a high social development, is a way worthy of a great national government. Keep the lands for those who will till and preserve them; never intrust them to corporations, special public bodies, or feudal lordships. Sell them to actual settlers; but retain for society, and its national political organs, the supreme

power to make laws—as to rights of way, forests, watercourses, general health, personal safety, and the metals in the soil, and to enforce them. Expend the proceeds of the sales upon a good far-seeing financial policy for public purposes, and especially in establishing centres of trade. We say *centres*, for the most costly folly of nations has been their penchant for *one* large emporium. With a choice of markets and roads, what is taken from the people, is returned to them impregnated with political wisdom; while the other way it is taken from them by middle men, or special interests, and acts as a dead weight on society. That the west made progress, in spite of the fallacious disposition of the public lands, only proves the immensity of the public resources that were misdirected and misdistributed. Too much of the wealth on which we felicitate ourselves, and which swells our census tables, inured to private persons undeservedly. Lowering the prices at government land sales, did not lower them to the permanent inhabitants of the west. They paid a profit to the first purchasers, and were to that extent less able to bear the hardships of pioneer life. Had the United States received these sums and expended them for public purposes, and every family in the land would have enjoyed the elevating influences thus engendered. Society would not only have been land rich, but wealthy in the highest and best sense of the word.

## CHAPTER XXII.

*THE NORTH AMERICAN INDIAN.*

"Free people do not want peace, but victories."—*Guizot, Life of Washington.*

WE may as well admit, that it is much easier to criticize conduct, than to frame a policy or to direct events; but while this admission warns us to be modest in our opinions, it does not dispense with the duty to use history and its experiences for instruction. And the great lesson we learn, in taking a comprehensive view of the fate of the North American Indian, is that all the errors and crimes, that are involved in it, had their source in founding political conduct on religions or morals that had really no application to the questions to be solved. The presumption, that the wish to spread a special European Christianity and civilization, in America, furnished the justification for treating the aborigines, who did not readily fall in with this purpose, as enemies and aliens in their own native land, was certainly wrong, if not criminal. America saw the principle that was thus violated, when, 170 years after the first settlements in North America, its people asserted their right to form their own political institutions, as well as religions and morals, from the standpoint of their own permanent interests, and by the light of their own experience, wisdom, and virtue.

Why the Indian never received the benefit of the Declaration of Independence? Why he was the only ward of the nation, and the tender object of its religious fervor, without anybody objecting to it? Why he alone was never considered included in the guarantees of the Constitution? These questions present anomalies, which perplex the more, the closer they are examined. The quotation from Guizot at the head of this chapter offers the only explanation, to wit: For ourselves we wanted liberty, over the Indian victories. What the Indian did to the wild animals in the forest, we did to him. So we presumed we had a right to kill him, and to treat him as the



enemy of American society, because he called his God by another name, and saw tyranny in our civilization.

Having got him out of society, our mutual relations could not be based on morality, but on international law. And we treated him not as a fellow-being, much less as a fellow-citizen. We stood to him, and he to us, as a member of a body-politic, between whom there could be peace, but not union or sociality. Neither of us ever believed this status to be right, but neither saw the fundamental error of the situation. There was much crimination and recrimination, and much of it true, but no correction of the main self-delusion. Mutual mistrust thus became traditional, and prejudice inveterate. No common political authority was established, that might have harmonized conflicting wants and desires. So we became aliens to each other, when we were in fact countrymen. The country, that was really too large for us, seemed ever too little to hold us both.

It is, as we said, easier to tell, that the right course was *not* pursued, and why not, than it is to point out, what should have been adopted; but one thing is certain, the initiative rested with the party claiming a superiority in civilization—the Europeans. That it was not done, constitutes their reproach, for they had before them numerous historic examples, which they should have considered; but also improved upon. The Phœnicians, the Greeks, and the Carthaginians carried superior social and political developments to other peoples, without driving them from their homes; they did it by respecting their customs and habits, until they, of their own accord, seeing the better ways of the new-comers, changed them, and adapted the new and old to each other. Why did the modern Christian make a much more bloody record than the ancient heathen? Why had he to drive out and exterminate, where the other affiliated and coalesced? It was because the Christian was and is less civilized than he has assumed himself to be. He had still much of the old Briton, Saxon, Dane, and Norman in him, and preferred to crush by force, rather than co-mingle socially and morally, or to have political co-ordination and affiliation. For moments—higher humanities would rise in their minds, and then they rued their aggressive conduct; but their inherent roughness, gilded over by their creeds, would always again resume its sway, and re-establish the old onslaught.

They could not act the insinuating part of the hypercivilized Chinese, nor that of the purely commercial Phœnician, hardly that of the cosmopolitan Greek; and they were too mercantile

to invade like Goths and Vandals, but also too warlike to come like propagandizing Jesuits. Full of religious and political casuistry and zeal, they fell eventually into a political medley, in which good, bad, and indifferent policies were so intricately mixed, that we have trouble to find the originals. With plenty of time before them, with Indians to deal with, that were willing to learn to be anything except to be servants or slaves, we stand before a course of events, from which we can derive nothing but regrets, to use the mildest phrase.

We cannot avoid the conviction, that the radical error has been and is: that the two races have treated with each other as organized public bodies, and always on the presupposition, that this is to be the perpetual relation of both races on this continent. What Lincoln said to the southern people in his Inaugural, 1st March 1861, would have been equally true words, if they had been held to the Indians at Plymouth Rock, or by Governor Hudson in New York Bay, or by Penn on the Delaware, or Raleigh in Virginia; they were: "*We are not enemies, but friends. We must not be enemies.*" There is not a single reason for the union of the United States, which did not exist, and with more force, for a wise and virtuous joining in social intercourse as between the immigrant and the indigenous American. But, as we now see, it came otherwise. Neither would seek to understand themselves, nor each other; and still less would either inquire into their proper relations. Both presumed the absence of the other would be happiness to themselves, while in truth they were, if not indispensable, yet needful to each other; for the European would be the gainer by being a little Indianized, the Indian by being considerably Europeanized. The presence of both, and their free intermingling and mutual absorption, was the true course, and it was and is perfectly feasible.

They negotiated for permanent relations before they understood each other, and without providing for some authoritative mode by which unforeseen difficulties should be obviated or adjusted. And as no such harmonizing medium existed, what else could come but a self-perpetuating war? There were meetings, but in separate councils and negotiations through chiefs. Each heard only the one side, and that under the eye and the inspiration of excited audiences. They were seldom deliberative bodies, generally but preparations for fighting, and in nowise fit for diplomatic negotiations. The Indian assemblies were calmer than ours; but of both it is true, that much was spoken that ought to be suppressed, and much left unspoken that ought to have been mentioned.

When two such "town meetings" are called, and are in session at the same place and time, they almost always come to regard each other as counterforces; and then they are to be satisfied only, if they can be made to think or to see, that one has gained an advantage over the other. At first they wish to outvie each other in generosity, but soon they begin to mutually distrust each other. Judging the other by themselves, they think there is a hidden purpose in the other's generousness, and, as Goethe says:

"They observe the intent and lose their temper."

Numerous instances of mutual kindly overtures to each other are related. Franklin has recorded that made by Virginia to the six nations, and their reply, in 1744. The offer was: that, "if the chief of the six nations would send down half a dozen of their sons to the college at Williamsburg, the government would take care of them, that they should be well provided for and instructed in all the learning of the white people." The Indians took, as is their wont, a day's consideration, and then replied through their chief, by expressing their deep sense of the kindness of the Virginia Government in making them that offer: "for we know," said he, "that you highly esteem the kind of learning taught in those colleges, and that the maintenance of our young men, while with you, would be very expensive to you. We are convinced, therefore, that you mean to do us good by your proposal; and we thank you heartily. But you, who are wise, must know, that different nations have different conceptions of things; and you will therefore not take it amiss, if our ideas of this kind of education happen not to be the same with yours. We have had some experience of it; several of our young people were formerly brought up at the colleges of the northern provinces; they were instructed in all your sciences; but when they came back to us they were bad runners; ignorant of every means of living in the woods; unable to bear either cold or hunger; knew neither how to build a cabin, take a deer, or kill an enemy; spoke our language imperfectly; were therefore neither fit for hunters, warriors, nor counsellors; they were totally good for nothing. We are not, however, the less obliged by your kind offer, though we decline accepting it. And to show our grateful sense of it, if the gentlemen of Virginia will send us a dozen of their sons, we will take care of their education, we will instruct them in all we know, and make *men* of them."

So much of this speech as suggests, that the thing least wanted in America was a good-for-nothing Indian, is excellent advice, for such a being would be useful to neither society; but

the proposition: that turning Europeans into Indians was making *men* of them, equals, if it does not exceed, the impracticableness of the Virginia offer. The error of both tenders is the same as that contained in agricultural colleges, that propose to educate *farmers* for the country. The Virginia College was no place for individuals destined to be Indians; the Indian wigwam no place for persons destined to live in the society of European-Americans in Virginia. And a college is no place to raise farmers, though excellent in promoting agriculture through scientific culture. The problems to be solved were those of everyday life, and everyday life was the school in which both should have come together, not a college or a wigwam. Had they learned to work, earn money, and to trade together, and soon they would have united. The Indians would have learned to own lands and dwellings individually, as well as owning some things all together in common; and in time they would have been compatriots, that were interested in the permanent welfare of one and the same society.

In 1705 a Mohawk chief, who was temporarily in London, saw the 20,000 German emigrants, that were encamped on Blackheath, waiting for the passage to America, which the British Government had promised them. He told them to come to Shoharie Valley (New York), and that they might live among them. The offer was, in a rough form, the correct basis for intercourse between the two races. After the Germans arrived in New York, and Governor Hunter, a narrow-minded Englishman, dealt foully by them, and would not give them the lands Queen Anne had promised them, they remembered the invitation of the Mohawk chief, and sent a deputation to the Indians in Shoharie Valley, who received them kindly. Conrad Weiser, of Backnang, Würtemberg, was their leader, and soon the two races were living together and learning from each other. This displeased Governor Hunter, and he disturbed them, when a part, again under Weiser, went to the Indians in Pennsylvania, and founded a second settlement (Heidelberg) on the Swatara, with Weiser as their head. His son had been apprenticed to a Mohawk chief, and he was the interpreter on the occurrence already related between Virginia and the six nations. He acted also as such in Albany in 1754, when Franklin's plan of a federal Union was presented to the Convention assembled at the call of Holderness, the British Secretary of State at Albany. And he is the same Weiser, whose daughter, by an Indian wife, married Mühlberg, the father of the two great men of that name in our revolutionary war, one of whom was a General, and the other the first speaker of the House of Representatives in Washington.



We mention the foregoing, out of very numerous instances, all of which go to prove, that individuals invariably succeeded in that, in which kings, queens, governors, presidents, commissioners, indeed all political and hierarchical personages always failed, to wit: to effect a *modus vivendi* for social cohabitation between the European and the Indian. McGillivray, a son of a distinguished Indian trader, born in Scotland, was a similar character, and he rendered extremely valuable services to Washington in 1791, in the negotiations with the Creeks about matters in Georgia.

The Moravians (Herrnhuters) are the only religious order, that could live in peace with Indians; but as they could only absorb and not be absorbed, because they were an organization, that deemed itself perfect, they never brought about the social amalgam, without which all intercommunication was always liable to lead to political and clerical enmity, as well as to jealousies, from interests that wanted to use, or rather abuse, the Indian.

There is not a state in the Union, that has not an authentic history of some white men, who could live among the Indians without enmity and strife. The incompatibility between Europeans and Indians is in fact a mischievous myth, invented to cover a mistaken policy and the hatreds it engendered.

It is a common but untrue belief, that the Indian was improved by the arrival of Europeans; on the contrary, they checked the progress of a most marked civilizatory development. And 100 years after the first European colony had been established, the Indians had readopted their—nearly-abandoned—roving disposition; they turned back from the white man to the beasts of the forest as their better friends, and receded with them from their common exterminator. He was, once more, an inland-bent being, his canoes grew smaller again, and his houses relapsed into mere temporary huts. Because he kept no records of what he had become before the European came, his enemies wrote him down, as he was, after they had debased him.

Ill-starred North American Indian! His very higher manliness, as compared with the Southern American Indians, with whom Pizarro, Balboa, and Cortez had to deal, was in the way of harmonic cohabitation with the Europeans that came to him. The English were indeed less cruel and very differently bigoted than the Spaniards, but still neither humane nor just enough to treat as equals and to live *with* a people, who expressed their religion in words different from theirs, and whose communism was, though democratic, yet so unlike theirs. Had our Indians been as effeminate as the subjects of the Incas of western South

America, and an intersociality might still have been instituted by their yielding; but it would not have been like the abject servitude which was imposed on the negroes afterwards; for the Europeans that settled the United States were never slaveholders by inclination, though they were always wanting servants. *That* the Indian was too proud to be, and no one suggested the relation (as between Indians and Whites) which the Europeans afterwards so often introduced among themselves (having seen the Indians do it) in log-raising, in road-work, in all things too much for individual effort, that of co-operation and mutual assistance, in which the basis of recompense was not wages, but constant readiness to repay in kind the obligation incurred for receiving previous assistance.

The gradual development of vassals into fellow-citizens, which took place in Europe between the fifteenth and eighteenth century, being out of the question, so far as the Indian was concerned; and no European suggesting any other individualized cohabitation under a vigorous joint-government, the question might be asked: Why did not the Indians propose some way, by which the European would have been absorbed by them in one sense, and yet acted as a leaven for mutual improvement, just as immigrants are now doing? That was impossible then, as it would be now, if attempted, because the new-comers came as the colonists of a political power that denied individual dealings in lands; and they always, as soon as arrived, carried out the colonizing purpose by organizing into bodies-politic; in which the Indian could find no place, and which he could not absorb. Had both the Indians and the Europeans been at any time individualized, and mutual absorption would at once have taken effect. As it was, the two bodies-politic could no more mix and become ingredients of a harmonious whole, than our bodies can take up whole apples, unmasticated pieces of meat or bread, and digest and distribute them, so as to become integral elements of our being.

Our argument leads us, therefore, to find the incipency of the regretful fate of the North American Indian in the old colonial policy of the British Crown. If in that policy an American people, growing up and acting upon its own permanent interests, had been possible, then the Indians and the new settlers could have formed an American people; but when this country was to be only a New England or a New Zion, this was impossible. No friendliness of Great Britain to the Indians, as against the land-hungry colonists, could make good again the original evil. The legal fiction, that the Indians were aliens in their own country, was continued by the United

States; and by a paradox, that now seems inexplicable, they called the British, even in the Declaration of Independence, "*Brethren*," and the Indians, "*Savages*." Thus they carried into the new government the original bias against our own aboriginal countrymen. We cannot, after careful search, find a single passage in Anglo-American State papers, in which the indigenous American was recognized as a full countryman by either Great Britain or the Colonies.

There was always more or less chafing as to the respective authority, between the Crown and the colonial legislatures; but it must be admitted, that, careless as the British ministries were of the Indians, they were nevertheless more humane than the colonial authorities and the inhabitants thereof. Great Britain loved to play the part of a protector of the Indians, as against the colonial overbearings; and would once in a while, restrain the rapacities of the more adventurous Whites, who interfered with Indian settlements, because they wanted their hunting-grounds and corn-fields. But British protection never amounted to a matured system, nor was it carried further, than necessary to keep up the belief, in the Indian, that they had a transatlantic Father, who would guard them against colonial aggressions. When the Revolution of 1776 came, the Indians believed, that one of the objects of independence was, to have full power over them; and they felt, if not downright friendly to Great Britain, at least not cordial towards the United States. Many sided with England, and in the war of 1812 renewed their hostile conduct, and this had much to do with the aversion of Canada to a junction with the other colonies. The cause still exists, and is producing the great difference between the Indian policy of Canada and that of the United States. It will some time or other lead to a war, in which the Canadian authorities will be the allies of the Indians.

When the Declaration of Independence charges upon the king of Great Britain, that "he has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions," we must not forget that "*audi et altera pars*" is a classic injunction; for the Indian would tell a very different story—one, however, that will most likely never be written.

There is an example in modern history, that brings this matter fully before us. When, in 1849, the Hungarians struck under Kossuth for independence from Austria, the Croats, that had frequently been maltreated by the Hun-

garians, organized themselves into an army under Jellagich, and marched to the succor of the Emperor of Austria. They did this, because Hungary's *independence* involved their *dependence*. They, for that reason, prevented, with Russia's help, the separate existence of Hungary, and they, some seventeen years afterwards, forced, by the help of the Emperor, a compromise from Hungary, that saved them from unfair re-subjugation.

When the Articles of Confederation were drawn up, the States gave Congress power "to regulate the trade, and managing all affairs with the Indians, *not members of any of the states*," and also "the power of determining on peace and war, except in the cases mentioned in the sixth article." *It* provides, that "no state shall engage in any war without the consent of the United States in Congress assembled, unless such state be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay, till the United States in Congress assembled can be consulted." The reader will readily see, that this clause gave full opportunity to begin war with the Indians, by simply charging, that they meditated an attack. The clause was a fruitful source of injustice.

In the new Constitution, the right to anticipate war with the Indians was taken from the States, and *all* war power given to the United States and taken from the States, "unless actually invaded or in such imminent danger as will not admit of delay." Congress was besides intrusted with the power "to regulate commerce with foreign nations, and among the several states and with the *Indian tribes*." The word "commerce" has, so far as the Indians are concerned, received the most extensive interpretation possible, and laws have been passed, protecting Indians against the intrusions of lawless traders; who are always the precursors of Indian disturbances, because they know that eventually our government always backs them. These laws are often violated with impunity. Indians not taxed were excluded from being counted for representative apportionments. This relates to remnants of Indian tribes remaining over by special treaties in some New England states in New York, Ohio, Indiana, &c.,—some 76,000 in 1789. The United States have a regular Indian Department under a special commissioner, or superintendent; and it is no more than truth to say, that these officers have generally guarded the Indians against imposition, and have plead their cause with Congress and the people at large. A few dishonorable exceptions did unfortunately exist.



The trouble about Indians, that were obnoxious to states, began with Washington's administration. Georgia was particularly offensive in its demonstrations; but that state was aided by the representatives of nearly all the slave states. And it soon became evident, that the United States had not so much stepped into the shoes of the British Crown on this subject, as that it was saddled with even greater responsibility but less power in the premises. It was, so to speak, put into the treadmill, and made to carry out a train of conduct, most distasteful to the finer feelings of the different Presidents and their advisers. The government was to be the convenience for two missions, one to capture the souls of the Indians for the churches, the other to get their lands. It was the old Cromwellian course, which commenced in sanctimoniousness and ended in rapine and murder. The difficulty was aggravated in the southern states through runaway negroes that were harbored by the Indians. For fifty years every administration was harassed by such questions, and peace came only, after the Indians were removed beyond the Mississippi; and even then the few hundred negroes among the Seminoles excited the cupidity of slave-traders, and a part had to escape beyond the Rio Grande. Mr. Gidding's book, the "*Exiles of Florida*," though onesided, is very interesting reading on the subject.

Washington omits the subject in his farewell address, but in a previous annual message he says:—

"We are more enlightened and more powerful than the Indian nations; we are therefore bound in honor to treat them with kindness, and even generosity." But he had to learn, before his time was out, that the following passage from his farewell address applied to the Indian relations as well as to natives generally:—

"There can be no greater error, than to expect or calculate upon real favors from nation to nation."

Why was this wise counsel not applied to the Indian nation? Why was there continual sermonizing on benevolence towards the Indians, and never square simple justice and wisdom? John Adams also took up the same strain; he spoke "of a spirit of equity and humanity towards the aboriginal nations of America, and a disposition to meliorate their condition by inclining them to be more friendly to us, and our citizens to be more friendly to them." Equity! humanity! friendliness! But no common justice, no objective inquiry into the real causes of the inhumanity and prejudice that was ever separating what should be united.

Thomas Jefferson takes up more the realities of the situation, and says:—

“The aboriginal inhabitants of these countries I have regarded with the commiseration their history inspires. Endowed with the faculties and rights of men, breathing an ardent love of liberty and independence; and occupying a country, which left them no desire, but to be undisturbed, the stream of overflowing population from other regions directed itself to these shores. Without power to divert, or habits to contend against it, they have been overwhelmed by the current, or driven before it. Now, reduced within limits too narrow for the hunter state, humanity enjoins us to teach them agriculture and the domestic arts, to encourage them to that industry, which alone can enable them to maintain their place in existence, and to prepare them, in time, for that state of society, which to bodily comforts adds the improvement of the mind and morals. We have, therefore, liberally furnished them with the implements of husbandry and household use; we have placed among them instructors in the arts of first necessity; and they are covered with the ægis of the law against aggressors from among ourselves.”

These are good intentions, and they were to a large extent carried out practically; but the principal wrong, that of treating the Indian as an alien and enemy, was not touched by them. That legal fiction took the question out of the moral rules and the political reasoning which applied to all the other inhabitants of America. It took from the Indian the benefit of the ten Commandments, as well as the Constitution and laws of the United States. The Indians could not be part of American society on these terms, and there could be no development of mutual moralities.

In the subsequent passage, in which Mr. Jefferson was evidently whipping some of his clerical contemporaries, who opposed his election, over the back of the Indian chiefs, he shows how unjust he could be. He says:—

“But the endeavors to enlighten them (the Indians) or the fate which awaits their present course of life, to induce them to exercise their reason, follow its dictates, and change their pursuits with the change of circumstances, have powerful obstacles to encounter. They are combated by the habits of their bodies, prejudices of their minds, ignorance, pride, and the influence of interested and crafty individuals among them, who feel themselves something in the present order of things, and fear to become nothing in any other. These persons inculcate a sanctimonious reverence for the customs of their ancestors;

that whatsoever they did must be done through all time; that reason is a false guide, and to advance under its counsel in their physical, moral, or political condition, is perilous innovation; that their duty is to remain as their Creator made them; ignorance being safety, and knowledge full of danger. In short, my friends, among them also is seen the action and counter-action of good sense and of bigotry. They too have their anti-philosophists, who find an interest in keeping things in their present state, who dread reformation, and exert all their faculties to maintain the ascendancy of habit over the duty of improving our reason and obeying its mandates."

Let us place alongside of this, the words of the Seminole chief, Coacoochee, to Colonel (afterwards General) Worth, in 1837, when about to surrender:—

"The Whites dealt unjustly by me. I came to them, when they deceived me. I loved the land I was upon; my body is made of its sands. The great spirit gave me legs to walk over it; eyes to see it; hands to aid myself, a head with which I think. The sun, which shines warm and bright, brings forth our crops; the moon brings back the spirits of our warriors, our fathers, our wives and children. The white man comes; he grows pale and sickly; why can we not live in peace? They steal our horses and cattle, cheat us, and take our lands. They may shoot us, may chain our hands and feet, but the red man's heart will be free. I have come to you in peace, and have taken you all by the hand. I will sleep in your camp, though your soldiers stand around me thick as pine-trees. I am done: when we know each other better, I will say more." His confidence was betrayed by another officer, who put him in chains about fifteen days afterwards; but Colonel Worth had his chains struck off, and thus freed, he emigrated west.

The Indian warrior spoke facts; Jefferson, the United States President, wrote wise words; but it was a pity that they did not apply to the poor Indians.

Messrs. Madison, Monroe, J. Q. Adams, Jackson, Van Buren, Harrison, &c., the successive Presidents, simply followed the policy set forth in Jefferson's address. The American people had talked and written themselves into the belief, that they did all they ought to do, when they carried the Indians westward beyond the Mississippi, and there assigned them wild lands, which they supposed they themselves would not want for a long time, if ever, and supplied them with utensils and outfits. The hollowness of this kind of benevolence is easily seen, when we call to mind, that these very Indians had become *settled* in the lands they were forced from; that they were farming, had

purchased slaves, and were in a fair way to adopt, more and more, the habits of life of the whites around them. Why were they disturbed? Was it because they intruded on the whites? Or was it because the whites intruded on them? We will not decide the question, for there is room for doubt. Suffice it to say, that quarrels ensued, that complaints went to the Father at Washington, the common judge. There the fear of the "next election" prevented an impartial consideration, and the Indian was, if not condemned, advised to leave the scenes of the disturbances, to emigrate west at the expense of the United States, and to recommence life under new promises, sure to be broken again in the future. Had government been what it should have been, it would have protected them where they were, and enforced the laws against all evil-doers. What a queer government! It could make the Indian emigrate, but it could not force the white man to behave himself.

The present condition of the Cherokee in the Indian territory is pointed at as proof, that the Indian is capable of civilization. As if that had ever been denied by unprejudiced thinkers; and as if civilization were other than a higher kind of social interhabitation. But is there not in this argument a double mistake? First, as to the causes of civilization; and second, as to the nature of the Indian? No human being ever becomes civilized, except by living in a society, that either has already or is in progress of enhanced social life. And the Indian is no more naturally cruel, than the European. Both are violent and bloodthirsty, when the necessities of their existence require daily and hourly conflicts with forces that oppose their satisfying their natural wants. There must be individual rights of property, security against personal peril, and protection against violence, to allow civilization to develop. There must be the citizen, who says to himself: I am worth all I make. The Indian, in the reserves accorded to him by government, comes upon them as a sort of pauper, that is spewn out by society, and he is asked to lift himself out of his false position! But he cannot do so as well as he could do, if he had been left to himself where he originally was. Being abnormally treated, he remains an abnormal being; and, until that chain is broken, he cannot rise to the full capacity, that is in him, as it is in all other human beings. Keeping him separate and apart was the original wrong; it has been continued for 270 years, and it is but little mitigated by the policy of "Indian reservations."

How great the loss of Indian population was in consequence of the course pursued against the aborigines, is an interesting question, but one difficult to answer. From the best estimates



we have, we believe: (1) that there never were over 400,000 Indians in the land now covered by the name United States, and (2) that about this number now lives on the same territory. If this be so, then all the population lost amounts simply to the natural increase that would have taken place, if no Europeans had ever affected the destiny of the Indian. How much that would have been, if any, is hard to tell. The Indians had no traditions of any special depopulating events in their own country; and the North American Indian was, in the beginning of the seventeenth century, just giving up his nomadic life, but no pastoral existence had intervened,—a most noteworthy circumstance, as A. von Humboldt points out. The South American Indians had, after Manco Capac came (1000 A.D.), become agriculturists, and then multiplied in population; but those of their countrymen, who remained outside of the influence of the Incas, have ever remained stationary in population. The same may be presumed to have been the case with the North American Indians, for they were of the same race, as Humboldt states. The North American Indian, wherever found, never states, that this country was once *more* populous; he has not even paid attention to the reminiscences of the race, that had lived in America before him, and had evidently also died out without a recorded history.

It is safe to presume, that the wars between the whites and the redskins were no more destructive of life than were those, that were common among themselves. The presence of the whites checked in fact, somewhat, their own interhostilities, and epidemics were also diminished. This doubtless made them more anxious to have and to bring up children, especially male children, as future supplies of the “braves” they evidently needed. The nomadic Indian has ever been excessive in sexual indulgence, and he was callous as to the propagation of the species. He has been much troubled by cutaneous and syphilitic diseases, and the latter were transferred from them in West India to the Europeans.

If these premises are true, then it follows: that the European's course of conduct has not *caused* the standstill in the number of Indian rovers over this country, or, expressing it in other words: that there are now as many Indians in America as there were in 1605-9, when North America first received population from Great Britain. The older Scandinavian incursions remained without any effect on the natives, good or bad, for it had not even the national colonizing spirit, which the British had as the colonists of another country, whose dynasties had a colonial policy.

The Census of 1850 states the then whole number of Indians at

400,764; that of 1870 at 383,712; and of these the nomadic are given at 234,760. It also states the fact, that among the Indians *settled in reservations* (97,000 in number), there were 30,464 adult females and 26,583 adult males, an excess of 3881 females, or over six per cent. The proportionate number of children were 39,319 to 57,047 adults, and the male children were only about 200 more than the female children. This would seem to indicate a larger destruction of males, by war and disease, than of females. We cannot tell whether the lower numbers given in 1870 are due to more accurate enumerations, or whether they represent an actual waste of Indian population. There is always a likelihood of some Indians being counted twice, because the tribes change their names just as the old Germanic clans used to do. Names were adopted from some special circumstance, and continued as a matter of pride, but dropped again as reverses made the name no longer a bond of union and strength. Remnants of tribes also coalesced with other remnants, or with other larger tribes. Some tribes occur under two names; for instance, the Indians with whom Penn treated called themselves sometimes Lenapes, meaning "men," and at other times Delawares. This tribe was largely absorbed by the Choctaws. And this process is still going on among all Indian tribes, and baffles statisticians, as the names of Suevi, Alemanni, Franks, Goths, Lombards, Burgundi do ethnographers.

The inquiry still remains, however: Why the Anglo-Saxon inflow had not the same, or similar, or better effects upon the Indian, than that of the children of the sun led by Manco Capac and Mother Vello had in the ninth century? The founders of the Inca empire had to do with the same race in Peru; and so had the Aztecs in Mexico in the twelfth century. We think we have already pointed out the difference; it was: that the Incas and the predecessors of the Montezumas understood how to individualize the Indian, and then to form them into a state under wise authorities; a modus of interhabitation, for which the Germanic races never seem to have had either the patience or the humanity.

General Knox stated in 1789, as Secretary of War, the number of Indians in the then United States at 76,000; and if we add to these some 15,000 that were then in Florida, Alabama, &c., and came into the Union by the purchase of Louisiana, and subsequent treaties with Spain; and also 9000 that were around the upper lakes, unknown to General Knox, and we would have a total of 100,000 Indians as being east of the Mississippi in 1790. The estimate was too low, as we may now see from subsequent events. In a report of the Secretary

of War to the President of the Senate, made in March 1836, the number of Indians *removed* is stated, giving names of the tribes at . . . . . 31,357  
and those to remove (again giving names) at 72,181

Total, . . . . .	103,538
Those around Lake Michigan are given at . . . . .	8,238
So that the total east of Mississippi must have been	<u>111,776</u>

The indigenous tribes, between the Mississippi and the Rocky Mountains, including Texas, are given, with names of tribes and number of each, at . . . . .	150,341
Total in the United States exclusive of Texas, California, and Oregon, . . . . .	262,117
Add the Indians in these territories in 1836, estimated at . . . . .	140,000
And we have a total of . . . . .	<u>402,117</u>

We doubt, on the whole, therefore, whether the number of Indians in North America was ever much, if any larger than it is now; but this does not exculpate us Europeans from the wrongs committed, because it was their duty, indeed of both the races, to have so behaved themselves, that there had been a gradually improving civilization, and through it a larger natural increase, and not a standstill or a diminution, much less an extermination.

It will ever remain a searching question: Why a people as anxious for populations, and so ready to absorb and merge with them, as those of the United States were—as is proven by their welcoming the immigrants from Great Britain, Germany, &c., and their importation of negroes—were, to say the least, callous, as to a people *in* the country, that counted near a half a million of heads, and that should, counting only an annual increase of one per cent., now amount to four millions? Why did the American people find it so easy to absorb and to employ foreigners, including the Africans, and so difficult to get along and to live with their aboriginal countryman?

The great social difference between the two races was, in our opinion, in the ownership and disposition of land. The Indians had no individual proprietorships nor sales. Their ideas of property were tribal (communistic). The Europeans were greedy for land and individual personal property. As

they could not acquire it themselves of the Indians, but had to employ government to first extinguish the Indian title, and then to purchase or get it some other way from government, it set in motion a series of false social movements, both among the Whites, as well as the Indians, which have had a very pernicious influence on all concerned. We can trace similar events to similar causes in the history of other countries.

For millions of years before Brennus appeared (390 B.C.) in Italy, with his Gallic (really German) tribes, and demanded land, there had been individual land sales and purchases between the Italians and their cis-Alpine and Alpine neighbors, and the intercourse was mutually advantageous. But when these same people came as organized forces, and demanded an assignment of lands by government, there was nothing to do but to resist, and the sword of Camillus on the scale of Brennus was the true answer. So the Roman Empire had peacefully absorbed in Italy for centuries, in civil and military employment, the countrymen of the Goths, the Vandals, the Huns, the Lombards, and the Franks.

This peaceable absorption ceased, and subjugation and resistance commenced, as soon as it was a national invasion; and it remains a question to-day: who was most unreasonable—the attacking Goth, or the resisting Roman?

So, in our own day, there were from 1815 to 1870 very numerous German emigrants, who went to France, and many Frenchmen, who went to Germany, and became the artisans, merchants, and laborers of the two countries. They acquired wealth, both real and personal, and nobody denied the mutual beneficiality of the intercourse. The war of 1871 changed the scene, and natural friends became national enemies.

England is even now absorbing some 50,000 Germans annually. Change them into an invading army, and who would not see a bitter foe in men, who, as peaceable immigrants, are so useful and so welcome?

The 300,000 immigrants, whom the United States accepted gladly for years, would be resisted to the bitter end as soldiers.

Could not the European and Indian have been friends if Penn, for instance, had instead of buying land from a tribe, for a body-politic (called the "Proprietors"), induced the authorities of the Lenapes, *alias* Delawares, to come to an understanding that there shall be assigned alternate allotments of land to both the colonists and the Indians, that each shall get a deed and it recorded; both authorities guaranteeing peaceable possession?



We may be told, that the Indians would not have done this ! But we answer : They *did* do something very nearly like this, as between Conrad Weiser's Germans in the Shoharie Valley in New York, and on the Swatara, a branch of the Susquehanna, in Pennsylvania. They did the same thing with the Moravians in Central Ohio. Governor Hunter of New York interrupted the German settlement, in the Shoharie Valley, not the Indians ! Thousands of other instances could be produced ; but these suffice.

The fact is, that the British-American Indian policy was a repetition, in new forms, but upon the same false pretences, of the policy of Moses, who would send the Hebrews into Canaan with orders for the extirpation of the natives thereof, and predetermined for the Jews a lot of narrow-minded landlaws, overareas, which he had not seen, and which were really never fully taken. Poor Judea struggled for centuries to overcome the incubus of these Mosaic rules. And so are the troubles between the white and the red man, for the last 250 years, attributable to false religious presumptions and economic mistakes as to lands. How immeasurably high does Manco Capac and his wife, as well as the princes of the Aztecs, stand above Penn, the Pilgrim Fathers, and all those Europeans, who came here to plant colonies, believing themselves to have in the Bible the best plan of governing man.

Would it not have been best to have placed the new comers under bonds to keep the peace with their new red brothers ? Why not have them disciplined to a respect of the rights of others ; and, if need be, have a few examples statuated by hanging some of the libertines and thieving miscreants ? The Indian seldom broke a promise made by his chief, and then only after the whites broke faith with him. Why were the colonists less loyal than the Indians ? Because their public authorities were hypocritical, and had lost due restraint over the people. Had they been as they should have been, and they would never have asked the Indians to vacate their lands entirely, but would have invited them to have individualized possessions of land and commodities with them ; and thus have inaugurated society with a joint public authority for the punishment of infractions on the rights of others. Refusing to live together, and preserving the tribe, was the easier way, and that is the reason why it was adopted. It was then, as it is to-day (1878), in the Turkish question. There were then, and are now in Europe, would-be wise men, who shrink from their real duty, because it would have taken more purity of purpose, and more practical good sense, than they had at their command. So they

talked religion and acted irreligion, and in the name of humanity made humanity suffer. The thing most wanted was, an honest government efficiently administered and protecting all.

Could not the same force, that made the Indians emigrate, have compelled them to stay, if it had been directed by real statesmen; or rather let us say, if the statesmen had not been foiled by popular prejudice? The question answers itself, and it is as applicable to-day, as it was to the first hostile proceedings against the Indians nearly 300 years ago. The Cherokees and Creeks accepted the presence among them of Indian agents and traders, as well as of instructors in agriculture. Why should they refuse the co-residence of friendly whites, if they could be assured, that there would be over both a joint authority, chosen by themselves, but backed by the federal arm?

It must be obvious to every observing mind, that the setting apart of Indian territories or reservations, really settles nothing except the removal of Indians from lands, which some white folks coveted. The lands now assigned to the Indians will eventually be as much surrounded, as their original homes were, and then the same questions will arise again. Will we compel them to emigrate again? Or will we rise to the full height of the situation, and stand on the only true ground, to wit: that anomalies shall cease, that all shall be subject to the same law, and to the same general action, interaction, and reaction of society? The denaturalization of the Indians must cease; their moralization must come through socialization and wise politics.

If we would but look north of us, we would see, that in Canada are going on affiliations, whose effects might be a lesson to us. Of one of these—that in Manitoba, in the Dominion of Canada—"Our Age" says, 1872, eighth series, p. 773:—

"The mixture of Indian and European blood in the half-blood has various grades; and as the intermixture is still going on, there has been really formed a 'new nation,' and the people call themselves such. The young folks are active, handsome fellows, but are much inclined to seek pleasure, and are very irritable. They have the reputation, that they combine the faults of both races, but that is not true. When they enjoy education they are not behind the whites in either civilization or moral conduct. They possess sharp intellects, and are apt learners. Many of them have distinguished themselves as clergymen, scientists, teachers, and officers. Often the traces of Indian mixture are invisible. In nearly all cases, even on the first mixture, the half-blood is handsome in face and figure. Prettier faces, than are found among the French half-blood girls, cannot be imagined; and even the less beautiful

faces are attractive for the splendid eye. They become rapidly aged; with thirty years their bloom disappears; and when they are old, the Indian features develop markedly. The lively 'bois brûlé' is seldom steadily industrious; he is more hunter than farmer, and spends his time much on horseback and in adventures. He loves his Indian relatives, and intermarries with the Indians. The Scotch half-blood is more industrious, desires to learn, reads much, avoids intercourse and marriage with Indians. He loves agriculture more than the chase."

Many of the Indians, now in the United States, know of the superior treatment which Indians receive in Canada, as compared with our Union; and migrations are taking place, towards the region, where this new nation is springing up. From all descriptions it is the healthiest area in North America; and the gradual dying out, which oppresses the Indian's mind in the States, does not depress the full or half blood in Manitoba. There, there are no longer any treaties with Indians as tribes; they absorb and are absorbed, as immigrants are in the United States. This is an immense step in the right direction, and we never read of the councils held by our generals with Indian chiefs, that we are not reminded of Walter Scott's description of *Hayraddin Mangrahin* as ambassador from W. de la Mark to Charles of Burgundy, in the novel "Quentin Durward." These councils, or "talks," as they are sometimes called, are so many farces, that cover many tragedies. Each side pretends to fairness, both desire some advantage. The Indian sells lands he really does not own, which, in fact, he can hardly be said to occupy; and he pretends to being an authority, that has no foundation in any jurisprudence. Congress legislates for forty millions of whites and blacks; why not, if they were represented, for half a million of Indians? They should become an integral part of our society, or be placed beyond its folds altogether.

Instead of treating with each other in temporary councils, that meet but for an hour or two, and act on mere local ephemeral matters, let us bring Indian affairs within the sphere of the common government, and pass upon them, subject to all the rights and all the duties of the other members of society. No one would propose, or, if proposed by somebody, nobody would agree to let the Catholics, the Mormons, the negroes, the Quakers, the English, the Irish, the Mexican, or the Germans occupy in this country the relation the Indian does. How, then, can that, which is wrong for all the rest, be right for the Indian? Why should that, which is right for all, be wrong for the red man? We have a general government, we have states, and also muni-

cialties; each has its sphere, and within all of them the Indian must find his place, neither weaker nor stronger than the other parts of our people, but their equal. We have compelled the South to reassume her place in the federal government, and have even imposed on them great social changes: shall it be said, that we shrink from letting the red man know, that diplomatic farces shall have an end, and that he shall come into the general play as an integral element of our society and government?



## CHAPTER XXIII.

## SECESSION.

"The necessity to be obsequious to the many, induces flattery to popular passions, and leads thereby to public demoralization."

—*Johannes von Müller.*

WE think the time has come (1879) when the causes and events of the late war (1861-65) may be presented in the way which a judge would use, when, after having heard the arguments of both parties, he sums up the law to the jury. Whether a citizen of a northern state, who has been an unwilling, but to neither side hostile witness of the conflict, which he tried in vain to prevent, is capable to be thus impartial? is a question, which the reader must decide after reading this chapter. We believe, that we have closely observed the facts, patiently studied the law, and are disposed to do justice to the subject. And though deeply wounded in our feelings before, during, and since the war, know, that we have no resentment left. And we hope that with others the passions and prejudices of the hour have also died away, so that we may now reason together. At one time it was deemed treason to be unbiassed on this question, and to have an equal fraternal feeling to both contestants; but as we were not then intimidated from avowing our convictions, so are we not now afraid to speak the truth, and to say that the war came, because neither the South nor the North had the high-toned regard for each other, which is necessary to a healthy Union: they had drowned it in their party feelings.

Nevertheless must we not forget, that, while the sections were, as bodies-politic, at war with each other, there were individuals in both, who were mutually at peace, and who sympathized with neither of the belligerents in their hostilities. Let us also remember, that there was not before the war, nor during it, and that there is not even now, a political party in America, that was not oftener wrong, than right. It becomes, therefore, all of us to confess that, in expressing our gradually-ripened convictions, we break the staff over many idealities of

both friend and foe. The most ultra-absolutism, the extremest anarchy, the most fine-spun casuistry found advocates, between 1861-72, while the voice of reason and scientific research was almost suppressed. There were many philosophic minds, that desired to know and to express the truth, but they were overruled by the vast majority in each section. They were determined to go it blind! The will of majorities was the plea for wrong in both sections!

The public men of the land had gone to school to their parties, and had been disciplined in obsequiousness to the many, so that their votes might be won; hence sophistry had the mastery. And if there were any experts in social and political science, who had the public ear at that time, they have escaped our eye, after diligent search. The public mind was in a condition, that made it easy and profitable for the popular leaders to put their own selfishness into the mouth of the people, and thus to escape responsibility for crimes.

We think it would be difficult to find in history any wrong, despotic, yet reiless public rule, that was not, in some form, reproduced by the authorities of America between 1861-66. All the false tax systems, every species of unjust money, all kinds of financial misdirection, every sort of military outrage, tyrannic arrests, cruel executions, confiscations, espionages, even pressgangs and wholesale devastations were resorted to under the plea of patriotism. The legal, medical, and theological professions, those sources of good jurisprudence, humanity, and religion, were ominously silent as to truth, and fearfully loquacious as to untruths. There were no statesmen (in authority) that could sift the kernels of truth out of the mass of chaff, that was put forth. Lincoln tried sincerely, but lacked the culture and mental discipline for the work. All! all! were either zealots or victims to the great American Moloch—partisanism. At every election the people hastened to testify to their own madness and folly! But it would be self-deception to assume, that the popular infatuation was like that of the crusaders—an outburst of the sentimentalities that had been cultivated during many preceding centuries; or, like that of the Boors' war (1476-1525), a revolt against intolerable oppression; or, like the French Revolution, the spasmodic upheaving of the people for higher social conditions. No! it was an infatuation fanned by party purposes and designs, of whose ingrained unrighteousness all were more or less conscious. And it was this semi-consciousness, that prevented the North from being more cruel, and the South from doing the utmost for its cause.

There was much sincere, but more *professed* patriotism,

humanitarianism, and fortitude ; but like the words : "Egalité, Fraternité, Liberté," engraven in 1848 on the Hôtel de Ville in Paris, they came out in derision, amidst the flames that flared up in a fratricidal war. America had to learn, that the lips of her politicians overflow most with kindness, when they intend to be most unjust, and that they fan popular enthusiasm with the more zeal, the more excuse they need for the bad governing, which they mean to perpetrate. Both secessionists and their opponents used plausible surmises and imputations for the justification of their acts; and they misled public opinion at home and abroad, so that both North and South were praised where they deserved blame, and were censured where they deserved approval. The existence of slavery had precluded any way an impartial judgment of the cause of the South, while the mere fact, that the North was fighting slave-holders, predisposed contemporaries favorably to this section. Had the full truth and all the attending circumstances been known and considered; and the world's judgment would have been both more kind as well as more severe, yet more just; they would have meditated more and cavilled less. Good people may get into situations, in which all the appearances are against them, and bad people may take advantage thereof; but impartial men, if they are wise, will know, that in human affairs there is never a positively right side; that there is always alongside of wrong elements an intermixture of right ones.

The slavery question got into federal politics soon after the beginning of the Union, because the slave states asked and obtained for it a fostering care from the federal government, which could not be long sustained by the free public will of the country. Not foreseeing the gradual abandonment of pro-slavery feeling, and not wisely anticipating the inevitable consequences that would flow therefrom, was the great error of the South. It was comparatively free from it during the first thirty years of the Union; for it allowed its great men to adopt the Ordinance of 1787, to agree to the abolition of the slave trade by 1809, to originate colonization to Liberia in 1821, and to crowd slavery south-westward with a view to gradual expatriation. *Then* it was anxious to let mankind understand, that it did not regard slavery and negroism as permanent institutions of America. But when cotton and sugar-planting made slaves extra valuable, it engendered in the South popularities, which were opportunities for political (partisan) appeals. Immigration had in the meantime, as Maryland predicted in 1786, changed the relations of representation and public power; and as this could be counteracted

only by concentrating the political forces in the South, the statesmen of that section took up with the slavery question as means for this purpose; and were ever urging courses of conduct for combining southern strength, as well as for fortifying it, by extending slavery to new territories. It was an uphill business even in the South, for it run counter to the old idea of the *temporariness* of slavery and negroism.

The golden moment for an intelligent, virtuous, and wise common understanding on the slavery question was in 1816, when Jefferson, Adams, Madison, Monroe, and Gallatin were still alive, and could command public opinion; when their old party feelings had nearly died out; and when the new animosities, that grew up between J. Q. Adams, Clay, Webster, Calhoun, Van Buren, Clinton, and Jackson, had not commenced. But it was allowed to pass by, and the poet's words became true for America—

“ . . . A moment lost,  
Eternity itself cannot bring back.”

The Missouri question came, and was only *half* settled; for the dividing line agreed upon, did not carry with it a settlement for all future acquisitions of territory, and this left an open question for a future generation, that was less wise and more partisan in its public opinion. The annexation of Texas and California, and the Oregon imbroglio, came at such a time, and fed the smouldering fires, which burst into flames, on the meanest of public acts—the repeal of the Missouri Compromise. And thus an issue, that should have been settled by the highest civic forecast in 1816, became the object of contention between men of very low ambition in 1854. It raised such a commotion, that when Lincoln proposed by special message, March 6, 1862, about, what should have been adopted in 1816, his proposal was outsounded by the noise and confusion incident to the then prevailing war. America had to have in 1862, what France had in 1848, a “*Too late!*”

And why too late? Because the subject-matter had passed away, from an objective discussion, to an issue on a rule of construction of the Constitution that was not argued under the light of federal jurisprudence, but upon party sophistries. The writings of standard jurists, never much consulted in the United States because Americans believed themselves to have invented the last best model of a federal Union, were now *entirely* set aside, and carrying elections became the sole ruling motive. The elections were, however, mere measurements of partisan strength, and could not be decisive on public policies;



because there was but little argument in them, and what there was, came incidentally, and not, because it was intended to elucidate the question.

The effect of permanent parties was the same in the United States, which it has ever been in church and state; they took up public questions, not to solve them, but to use them as means of agitation. When, therefore, Lincoln proposed, in 1862, to renew, in a new and better form, the gradual abolition of slavery and extinction of negroism, he was met in each party with prevarication, and the measure was shelved; because it would not fit into the belligerent disposition of the public mind. Even Lincoln himself could not free himself entirely from the noxious party influences; how much less the others, that were nothing, the moment their electioneering hobbies were withdrawn? Had there been an honest disposition to see the right, and it would have been inquired for and found; for it lay near them all, and could easily have been ascertained and established.

The doctrines advocated by both parties were, abstractly speaking, right enough; the only trouble was, they did not apply to the case, then being tried. That of the *North* would have met the actual issue, if only there had not been any states recognized as co-authorities in the Constitution; and that of the *South* would have been applicable, if there had never been a supreme federal government established. The South had to relearn the latter fact through defeat; it took the North, deceived as it was by victory, until 1877 to refind its actualities. Then it needed states to count-in a President; it saw a party necessity, but not that of the country. Mr. Jefferson admitted that the Constitution of 1787 constituted "a nation as to foreign concerns;" but had he analyzed in his own mind what this word, as well as the phrase *American People*, meant, and he would have perceived, that the object of the Constitution was the erection of a superior national (ethical) public will, for something more than *only* the foreign concerns. The moral duty to constitute such an authority existed before the Union was formed, and all the Constitution of 1787 did, was to add the binding force of constitutional law to a pre-existing moral duty. The formation of the Union in 1787 was not a mere incident, nor an act done on compulsion; it was the free-will of sovereign states. And it provided for the continuous evolution of a better and stronger public will, than the states had evolved or could evolve by any separate action of their own. This legal recognition of a pre-existing moral duty, solemnly recorded in the Constitution, was *now* an

enforceable duty; and the organ of enforcement was primarily the federal government; and the states could come in *only* on proof of a failure in the government therein. The Union authorities could not give themselves power, but they had the right to enforce the lawful existence of authority vested in them, by virtue of a constitutional recognition of an ethical obligation.

To argue, that, because the formation of the Union was the *free-will* of the states, that therefore they could break it at pleasure, is the reassertion of a doctrine overruled by all the courts of all the states, viz: "that a voluntary legalization of a moral obligation can be repudiated at pleasure." Had the argument been, that the Fathers were mistaken or deceived, and that there was no ethical reason for the Union in 1787, and to break it up might have been a right, or even a duty. Or had they been able to show, that the united parts of American society no longer needed such an organism for its perennial happiness and safety, and the world at large, as well as the other states, would have been bound to listen to the argument, and to hear, before they struck. But to claim the right to secede *at pleasure*, was making that a question of will, that was one of right and duty. It was an impeachment of the Fathers' conduct, and a violent infraction of the law which these wise and good men had constituted. It was an attempt to get outside of the *reason* of the Union, which was as impossible, as to get outside of the country itself. It failed, because the natural coherences were still in force, which all parts of American society had still to obey. Mr. Seward, confused as he was on many points, was clear-headed enough to know, that the moral sense of mankind would, *d priori*, condemn the side that struck the first blow, and he so shaped events, that the South committed the first overt act of war. It was a diplomatic victory—one that evinced even deeper hostility and more malicious enmity than the blows struck on the battlefield. It provoked the first cannon-shot, as it was calculated it would; and a giddy world once more, as often before, formed a hasty judgment.

One of the most serious mistakes of the South was, that they likened their attempted secession to the American revolution. There is a wide distinction between the two causes. That of 1776 was a dissolution of political ties, that had neither the moral nor legal sanction of the country, and were in themselves preposterous; because an ocean flowed between the two countries, and the government of neither could be the law-maker and political regent of the other. The secession movement of 1860 was, on the other hand, an attempt to rupture a Union

created under a sense of moral obligation, and ratified after a long and fair discussion. The Union, as stated, was a recognition of actual common interests, and an agreement to have, a much wanted, common policy. It may well be doubted, whether there could ever have been a healthy linking together (politically) of Great Britain and the United States, but there was no such doubt against the American Union.

England and North America had unity of language and literature; so had and have Germany and Switzerland, but yet they are apart politically. And why? Because the two countries, or rather their societies, cannot evolve a joint public will, satisfactory to both, except upon special concrete objects. The incongruity of a political union of England and the United States becomes apparent at once, if we will reverse the old relation and ask ourselves: whether England could be ruled from America? as would surely have been attempted, if they remained together. Is it not obvious, that the United States would before this have sought to enforce ideas of government, that would be intolerable to English society? It was for these reasons right and proper to free the two countries of each other; for it was giving to each society the freedom it needed for its true national (ethical) development. The formation of a federal Union is (why not understand it?) in itself the organization of a political inter-state society at large, whose action, interaction, and reaction, as parts upon the whole and the whole upon the parts, is the admitted reason of the act. The habitual loose employment of the word *people* in political phraseology has done much harm in modern times, but nowhere so much as in the United States. To *society* belong all the attributes usually ascribed to the people; a misnomer so often made also between the words *God* and *Nature*. The mischief lies in attributing to a fatherly, what belongs to a motherly relation.

Mr. Lincoln put the question of secession quaintly before the southerners in 1861, when he was trying to induce them to reason it out calmly, by the remark: "Physically speaking, we cannot separate. Intercourse, either amiable or hostile, must continue between us; the identical old questions, as to terms of intercourse, are ever upon you (us)." But he spoiled his point, when he asked next: "Can aliens make treaties easier, than friends can make laws?" The question betrays the misconception, that was at bottom of his reflections on the subject. What analogy is there between *treaty*-making and *law*-making? The first is voluntary action, and all the South asked was to be remitted back to this rule; for it placed them where the States were after Great Britain had acknowledged their independence

and before the Constitution was made. All they wanted was a continued treaty-making. The moment congressional legislation was *that* again, the South was content. But that was the very thing the United States Constitution was meant to abrogate; and *this* issue should have been presented by Lincoln. The previous remark contained it; and he would have been entirely right, if, instead of a question, he would have added: "To go back to treaty-making makes aliens of us. Is that what you desire? Then let me tell you, that this would be immoral, yea criminal. As social conditions are now, Americans cannot be aliens to each other, without being enemies."

Mr. Rhett makes South Carolina commit a similar misstatement of the true issue, when he makes her say: "The Government of the United States is no longer the Government of confederated republics, but of a consolidated democracy." We have here a double misrepresentation; for the Government never was (after the abrogation of the Articles of Confederation) "a Government of confederated republics," and it was not in 1860 that "of a confederated democracy." It *was* a *Government*, with a law-making power, and not a council of treaty-making states. Whatever wrong there was in democratizing its administration, was committed by substituting the will of a party for the collective will provided in the Constitution, and in subjecting the election of President to *national nominations*, instead of leaving it where the Constitution placed it, with the States and their electors. South Carolina maintained this very ground up to 1856. Why did her own favorite son put into her mouth a semi-truth, and a totally false accusation against the Government, at a time when, of all times, she ought to have uttered the full truth? Why, however, did Mr. Lincoln, in animadverting on this, equivocate also, and state the truth but half way? He wrote: "These politicians are subtle and profound on the rights of minorities. They are not partial to that power, which made the Constitution, and speaks from the preamble calling itself: We the People." Well! well! No man will say, that this passage was either subtle or profound. Majorities need *neither* quality; they represent brute force.

To us the following process of reasoning seems correct. There was in 1776 a fully-developed American society, that needed to be freed from British society, embodied as it was in a king and parliament as political organs. The organ of that new society was the Union, first formulated by Franklin, June 11, 1757, and eventually established in the Articles of Confederation, 1781. That society loved to call itself: "People of the United States;" and so the Fathers put it into the Constitution



of 1787. It filled a vacuum in their ideas of government, after the king was taken out of it. They were English-bred political thinkers and framers of government, and they needed some omnipotence as a basis for their federal unity. What else could be this for them but "the people"? Their fundamental idea of government can be expressed in the formula: No power to a king; all power to the people! Had it been expressed to them in this naked form, and it would have shocked most of them, even Jefferson and his school. The framers did not put into the Constitution anywhere "the People" as a sovereignty over the peoples of the several states. It was put into the preamble thus undefined and shadowy, because their ideas were indefinite. The word became the spindle, around which were spun all the theories, that undermined the Constitution. And how strange! it entered the Constitution also by the very amendment insisted upon by the states-rights-men in Art. X.

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."

What people? Was the whole people of the United States meant? Or the several people of the respective states? If the latter, then the word employed should have been: THEIR. and not "the"—a very fatal oversight in the authors. It could not have happened, if the word "society" had been everywhere employed in lieu of the word "people." The latter was the phrase that had perplexed ancient Greece and Rome.

Whether the word: People, as used in these two places in the Constitution, meant the Greek *demos* (Latin, *populus*), or the *ethnos* (Latin, *natio*), became gradually a more and more burning question. Neither party would agree, that it really embodied vague comprehensions; both tried to impregnate it with their after-interpretation. The old Federal, afterwards Whig, now calling itself Republican party, desired it to be used as implying an ethical people, an *ethnos*, a "Nation;" the old Republican, afterwards Democratic party, clung to the word People in the sense of a political power—a *Demos*—a *Populus*. The first wanted to inject *their* ethics(?); the second, as the word democracy indicated:—a political faction convenient to their politics. South Carolina never agreed to the latter impregnation of the word, but it drifted at last into the party that so used it. It—the party—was, if any body, guilty of changing the government into a consolidated democracy. It began in the national party nominations for President by Congress and Conventions, and South Carolina acquiesced after 1852. And this party is therefore the one, that turned the presidential and

other elections into "plebiscites," and gave them a significance and quasi-legality, that made them the government of the country. The republican party fell in with it in 1860-65, and used it as a club on the heads of those, that had introduced and established it; Mr. Rhett was taunted with it in the words quoted from Lincoln.

The refusal of the southern states to obey this so-called "will of the people," as expressed in the result of the election of 1860, gave to their conduct the offensive, rebellious hue, which turned the world against them. It was democracy in legal habiliments, that was pleading against doctrinaire democracy at the bar of public opinion. Lincoln accused the South in his message, July 4, 1861, with "deliberately pressing out of view the rights of men and the authority of the people;" and he made it plain, how high a crime this was in *his* mind, when he added: "that it was resistance to the noble purposes of the United States Government," whose "leading object" he represented to be: "to elevate the condition of men, to lift artificial weights from all shoulders, to clear the paths of laudable pursuit of all, to afford all an unfettered start and a fair chance in the race of life." Contrast these two democracies—the one striking fetters off from the oppressed; the other protecting slavery—and tell us, whether either had a place in any words of the Constitution? That the government was federal forbids both these constructions; and it was high time to cure both sections of the false notions they had of the common government. How to cure, on the one hand, the superciliousness of the South, that believed it held the orthodox doctrine, and how, on the other hand, to keep the North from falling into superciliousness on the other extreme, was the question of the hour. America had no great man in power for its solution. It had partisans, politicians, no statesmen!

It was disingenuous in the South to represent that, in 1861, as a northern usurpation, which was a common mistake and a general malformation. All had joined in perverting the constitutional government into a party government. Through the latter, American society lost, what, scattered and scattering as it was over an immense territory, it needed most—a common medium for forming a national (ethical) will. The United States Constitution contained provisions for such a medium, and its opposites were, after as well as before its establishment, the influences and motives that were unethical (partisan). Captain Daniel Shays, the hero of shin-plasters (1786-87), is a specimen of the genus *Homo Americanus*, that has had plenty of followers, and they have ever opposed the better impulses in American society. The very fact, that such men have never

been confined to single states, but have ever found co-operators in every state, shows, that there is, or rather, that there may be, an American society in a bad sense. But the other fact, that there have also been in every state men who opposed these demagogues and upheld ethics, is also proof that there is an American society in the good sense. That Washington, Franklin, Witherspoon, Rufus King, Roger Sherman, Hamilton, Jay, Dickinson, Knox, Carroll, Madison, Rutledge, Pinkney, Butler, and Baldwin, all men of different states, could unite in securing the Constitution of 1787, against the demagogues in all the other states, is evidence, that there existed then an American society capable of forming an ethical national will in spite of the opposing elements. That fact gave to their act its legitimacy; it was and is the reason for the loyalty due from us all.

The establishment of gold and silver as the standard money, and the denial of State paper money, was the first corrective act of a wrong public will; and the prohibitions in Art. I., sect. 10, all breathe that spirit. The Constitution itself was established to be a perpetual protest against the false conduct of the States between 1776-86. This object protrudes most markedly in the clause which requires "the members of the State legislatures and all executive and judicial officers, both of the United States and of the several states, to be bound by oath or affirmation to support this Constitution." Why are federal officers not obliged to swear to State Constitutions? Why is the federal government made the guarantor of republicanism? The Constitution of 1787 was evidently, in the eye of its framers, a better Union, than that of the Articles of Confederation; because it provided for a superior collective public will on the subjects dearest to their hearts. It freed to that extent American society from local error. It lifted the country out of the disgrace, into which states like Rhode Island, and men like Captain Daniel Shays, had then brought the country. And it is not without significance, that Rhode Island, the state that had the meanest local public will, was the last to ratify the Constitution. Its shameful conduct as to paper money and the collection of debts, had earned it that distinction. General Varnum's address, in which the students, merchants, the better farmers and mechanics supported him, forms the honorable exception. (See Madison's Paper H, 630, 709, iii., Appendix I.).

In this connection, it may be well to state, what might perhaps be understood, without saying it, viz: that the Constitution is also ethical in what it denies to the Union Government, and no less so in the functions which it apportions or leaves to the states. Indeed the ethical test of federal Unions is, from first

to last the rightful and appropriate apportionment of public functions to *those* public organs and authorities, that can perform them best.

The question will perhaps now be asked: Which side was in 1861 the defender of an ethical public will? And who opposed it? And we answer, that the very putting of such a query brings out the fundamental misconception of the nature of the struggle that broke out in 1861. To all appearances the South was wrong and the North right; but only in appearance. In reality the ethical sense of society was suppressed in *every* state of the Union; and it was this suppression, that brought about a conjunction of circumstances, that made the crime appear sectional, while it was really a national disease. American society had become helpless as against its bad elements; it could neither nominate nor elect the better representatives of an honest public will. Go to the records of the day, and this statement will be corroborated. Nor was the slavery question *the* question upon which society was helpless. No! Every other issue involved the same quandary. Nor is it correct to think, that the issues discussed were the true issues; on the contrary, the most serious fault of the popular mind was, that it refused to entertain any truthful presentation of the real ailments of American society; and that it persisted in being loud-mouthed on invented issues, for which there were, of course, no remedies. That society itself (the people) was out of joint, but few stated, none willingly listened to! The great men of America, and the appreciation of them, seemed to have died out at the same time!

The same falsification of public questions has occurred frequently in history; we will instance but the most noted one. It was, when Pericles, for the purpose of preparing the public mind for the Peloponnesian war, stated the question to be: "Either Athens must rule Sparta, or Sparta will rule Athens." The truth was simply, that neither should nor could rule the other except to the ruin of both. And the actual public question in both was: whether they would be ruled by an ethical or an unethical public will?

The Constitution of the United States was, after 1852, a waif upon the political waters, the moment the popular minds became an instrument for low ambition, such as moved Douglas and Cass, Chase and Cameron. Then the political partisan leaders acted like diseases do on human bodies; they seized upon weak parts, and subjected the whole system to their sway. Then everything depended upon the residuum of ethical force that was afloat in society. It determined whether there should be recuperation, or a steady sinking on the inclined plane to complete demoraliza-



tion. Had there been a proper energy, and the society or people would have put the real question, to wit: Shall we be subjugated by the bad men of the land? Or shall we subject *them* to the intelligence, virtue, and wisdom of the country? Such a question a people will not ask, who deem their will, simply because it is their will, to be law. And that was the vice in the public mind in Athens, when the Peloponnesian war was about to break out. It was that of the United States after 1852, perhaps before.

The great value of good political schools, whose doctrines have ripened into historic rules of public conduct, is: that they become staffs in the hands of populations in their never-ceasing task to discern *good* from *bad* public men. This service the Jeffersonian school, refreshed by Jackson, might have rendered to American society, if it had maintained its integrity to the country and itself, and kept steadily correcting its actions by the advancing light of science. Integrity means in this regard, capacity to find, and fidelity to trust its great men. Had Van Buren and Benton been the leaders of the democratic school up to 1852, and its politics might then have been so firmly set, as to defy Calhounism and Cassism between 1844 and 1848, as well as Pierceism, Douglasism, and Buchananism between 1848 and 1860. The school, usually called "democratic party," would then have been so high toned and so indoctrinated with truth, that it would have detected its own counterfeit (a multitudinous, consolidated democracy), and it would have strangled it, before it could have done irreparable mischief. Even as it was, it had so deeply impressed the country with its principles(?), that the only way the opposite party could get into power, was to revive the original name of the old Jeffersonian school and to pretend, that on the subject of banks, the currency, free trade, internal improvements, and strict construction generally, the democratic party embodied the final judgment of the country; and that there would be no going behind this final decision. That this proved to be a false party pretence; that the federal government passed bank charters and made forced loans; that it enacted protective tariffs, and through them robbed the West and the South; that it went behind all the understood limitations to its power; *that* made the purest minds of America sigh at, what otherwise would have gladdened their hearts.

The bad faith of a party to itself, always shows out in her forsaking her normal leaders, and soon thereafter we may notice her to be running before the wind. She then forsakes one principle after another, tries to evade all new public questions, and becomes intolerant towards those who warn her. All this occurred in the democratic party from and after 1844; and it

fell more and more into the hands of bad men, and drove more and more good men into private life. By 1856 a hundred Diogenes's armed with Bengal lights, could not have found a single statesman among the leaders of the party. A new party could therefore arise that claimed to be *more democratic*, than this democratic party; for the country was in search of pure and efficient democracy. But to this new party applied Count Chandordy's words, spoken as ambassador of France at the late Conference in Constantinople: "One can improvise institutions, but there is one thing we cannot improvise, and that is men." The new republican party was even more treacherous to the political school, which it pretended to follow, and was, of course, also false to its own superior minds. It gained a victory at last in 1860, but it had already adopted for its guidance everything that was wrong in the democratic party, and soon it abandoned even the pretence of following the *good* precepts of either the Jacksonian or its own school. It had but one motive, and that was to retain power, though knowing itself to be largely in the minority as to the popular vote. It was born with lies upon its lips, and its whole existence rested on falsehoods.

It was, for these reasons, more than southern flesh and blood could stand, in 1861, to see the imbecility of its own party, and to have it used, as a cover, to allow the opposite party to come into power, which they must have known to be the old wrong federalism in new clothes. Wherever they turned, they saw false pretences; and, the perils they brought to their interests, increased the hate they felt for them. They were sort of conscious, too, that their treatment of Van Buren and Benton, their support of the repeal of the Missouri Compromise, their entanglements with Douglas, and their neglect of all true northern democrats, had been a false policy, and it embittered their reflections. It did not, however, diminish their detestation for the party in power. What other remedy could occur to them, except secession? That it was so near akin to suicide could not deter them from it, for they felt like seceding from everything, even themselves. Alexander H. Stevens and a few others rose to the sublimity of self-abnegation and lofty patriotic thought and speech; but the storm was up, and their counsels left only echoes in the southern mind, which are still sighing through its council halls. Their words were spoken in vain at the time, and could not stop the impending mischief. The time for argument had gone by. The sword was ready to leap from the scabbard, and force became the arbiter. But *it* could not furnish the right solution; it could only cut the Gordian knot,

or clear off some fogs and mists, by drenching the country in blood, but not the deep misunderstandings. In our public debts, in paper money, in protective tariffs, in crooked whisky, in a disgraced country by corruptions in Congress, in the Cabinets, even in the Judiciary we can read, what was really the matter with the country in 1860.

It was not the country, nor the nation, nor the Constitution that the South wanted to secede from in 1861, but from an intolerable political situation, that brought attacks upon her society, from which there was no defence but bloody resistance, so far as she could see. Her social affairs, which she had managed so much to her own satisfaction, were arraigned, as she well knew, only, because the political parties of the country needed an issue, upon which they could talk liberty and democracy before voters that had no direct dollar-interest in the property, over whose back the parties were quarrelling. Another issue (Nativism) had first been tried, but on it there were voters with a direct interest, within the States, whose politicians ached for power. An extraneous question (slavery) had to be found for this northern public, on which they could demagogue without exciting fears of losses in property among their fellow-agitators. How was the South to be extricated from this condition? Where was the authority, the power, and the will that could take the issue away from these parties? The Supreme Court might decide cases (and it did), that settled the law as to judicial questions; but it could not prohibit parties from making the election of a President turn on any issue, which the parties might make the national target to be shot at with political pop-guns. Flying apart was therefore the natural feeling, and it was not the southern hotspur alone that had it; it pervaded the whole American society for some time, and in many forms. Anti-slavery was as much one of these forms, as pro-slavery was, for declaring that slavery was inconsistent with a republican federal Union was, in fact, an assertion, *that the Union of 1787 should never have been formed*. It was tantamount to saying: "*the Fathers formed an immoral Union, and established an immoral Constitution.*" The very corner-stone of the ethics and the jurisprudence on which the Union rested, was thus taken out. The moral conviction that it was the duty of all to maintain the Constitution made Jef Davis advocate secession, made General Scott say: "Let the wayward sisters depart in peace." Even Horace Greeley concede a separation, with a view to reconstruction. The war and the war-cries were but the still more striking demonstrations, that there was no longer the formation of a collective public will, which all felt bound to obey.

We may be told by one set of men, that our argument admits the right of coercion on the part of the federal government; and by another, that it concedes the right of secession. We have nothing to reply to persons, who will seek to force our objective reasoning into their narrow partisan mould. All we assert is the fact, that a hostile feeling existed, between 1856 and 1860; that it was then indulging in a bloodless war of words and ballots; that the public mind had been systematically educated into the belief that *its will* was the *de facto* Constitution, and that thus indoctrinated, it was ready to treat as treason any opposition to its will. It was the irony of fate, that this new party could not elect a president upon its own basis (a majority of *popular votes*); and that at last it had to rest its legitimacy upon the *electoral* vote, and the Constitution. This inconsistency, with its platforms, it desired to be forgotten; and the game at first was to keep lashing the waves of political excitement; but by 1865 even that began to be more and more impossible, and the party now resorted to negro suffrage. But of all the artificial contrivances to govern a country, the least available, and the meanest are *manufactured voters*. They, of all voters, have affections for low public characters. They cannot be anything else than voting cattle, and are therefore the tools of bad men for mischief. So negro voters have proved.

Who can reconcile the two glaring inconsistencies in the American character?—first, the asseverations of pietism right alongside the deepest political hate; second, the unbounded admiration of the United States Constitution, and yet the complete setting of it at nought in practice. These inconsistencies came out *most* in the war between 1861 and 1866, but they began long before, and we can ascribe them but to *one* cause, though it is *dual* in form. That cause is: that religion and politics in the United States are impelled by the motive to get proselytes for the churches or parties respectively. The aim was not therefore to promulgate or advocate what is right, but what is popular. And as nothing can be popular that does not cater to some existing prejudice, or cupidity, or vanity, it stopped, in church and state, ethical developments, and stimulated impurities. The war spirit lay deep in the public mind; it showed itself in the Mexican war already: for it was not a national, but a party war. It broke out upon a neighboring people, because the animosities at home had not yet found a home object, upon which the bloody disposition could openly and cheaply avow itself. That was furnished by the South to the North, and the North to the South, in the criminations and recriminations bandied about between the two sections on the subject of slavery.



The Wilmot proviso caused it in politics; anti-slavery missions did it in the churches. In both it was the mote in the brother's eye, not their own beam, that was denounced.

Hypocrisies always end in hypercriticisms; and when in 1861 the war with cannons and bullets was about to come, which ever follows discords begun with slanderous tongues, then the very folks, that had maligned and opposed each other, pretended to be astounded, that anybody talked of trying public questions by bloody arbitraments. They improvised peace conventions, proposed compromises, and when they failed, as fail they must, they discussed the question: whether the United States Government had a right to coerce the states? Or: Whether the states had the right to rise in arms against the Government? This! after the Bowie knife, Colt's revolvers, Sharp's rifles, election frauds, spurious constitutions, bloody street-riots, burning churches, and John Brown's raid had testified to the bad blood there was, would have been ludicrous, if it had not been too serious. Think of it, kind reader. A people guilty of keeping their public authorities from doing their duty for years, actually stood asking: whether the unrestrained brute forces, of which society then was overflowing, should be allowed to fly at each other's throats? The difficulty was, that no power existed to prevent it! Jesus rebuked similar hairsplittings that perplexed Judea, through the Scribes and Pharisees. He told them (in the Sermon on the Mount) that calling brothers *Racca*, or fools, and having a rancorous, unforgiving spirit, with a lascivious, covetous eye, was murder, adultery, and theft. And the public issue in the United States (1860-61) was not, whether armies should be put into the field and regular war should be declared? It was, whether there was any public virtue left, and how much of it? Whether it still adhered to the spirit of the Constitution and the object of the Union? The two millions of soldiers, that tramped over the land during the next four years, prove, simply, how small a minority in both sections was still loyal to right and justice.

It is absolutely painful to read the state papers of the period. Buchanan was ever hunting in the Constitution for disquisitions on the power to declare and to make war against states; as if marriage settlements contained provisions, whether the husband could whip his wife, or the wife could scratch her husband's eyes! He, claiming to be a states-right democrat, says in his message, December 4, 1860: "The fact is, that our Union rests upon public opinion;" and to support it, he quotes Madison's report to the Legislature of Virginia in 1799 on the Resolutions of '98, which shows that he misunderstood not

only the author (Hume) from whom he took his idea (that opinion is the foundation of government), but also the Resolutions of '98, whose representative he held himself out to be. If our Union rests on "public opinion," why then did he not obey it? *That* was the basis of the then opposition. It claimed to, and it did embody public opinion, so far as it represented dissatisfaction with those in power. Buchanan's great duty was to show, that it is not public opinion, but a collective public will, wrought out by federal political organs, that is the true law of our Union. He suggested an "explanatory amendment to the Constitution," but had we not had twelve such additions in the twelve amendatory articles? They were in vain! Why? Because the politics of America were run by the weather-vanes of public opinions—elections—when they should have been run by the standards established in the Constitution in the true spirit of federal institutions.

Attorney General Black asserted another curious conglomeration of legal reasoning. He wrote: "Within their respective spheres of action, the federal government and the government of a state are both of them independent and supreme, but each is utterly powerless beyond the limits assigned to it by the Constitution"—as if the Constitution contained then, or had ever contained, a definite comprehensive settlement and regulation of all the relations of states to states, or to the federal government. It did not even do so upon the points actually touched upon, and still less upon those not mentioned.

Attorney General Bates, his successor (under Lincoln), says, with an acuter sense: "We ought not to say, that our system is perfect, for its defects (perhaps inevitable in all human things) are obvious. Our Fathers having divided the government into co-ordinate departments, did not even try (and, if they had tried, would probably have failed) to create an arbiter among them to adjudge their conflicts, and keep them within their respective bounds. They were left, by design, I suppose, each independent and free to act out its own granted powers, without any ordained legal superior possessing the power to revise and reverse the action. And this with the hope, that the three departments, mutually coequal and independent, would keep each other within their proper spheres by their mutual antagonism; that is, by the system of checks and balances to which our Fathers were driven at the beginning, by their fear of the unity of power." *Mutual antagonisms!* the regulators of *proper spheres!* What an idea!

The same officer subsequently claims, that "the President of the United States rules in peace and commands in war," and that "at that moment (July 5, 1861) he was in the full exercise of all the functions belonging to both these characters." And he adds: "The civil administration is still going on in its peaceful course, and yet we are in the midst of war,—a war all the more dangerous, and needing more jealous vigilance and prompt action, because it is an internecine and not an international war." We need not quote further to show how confused even the best minds were.

The men in power between 1861 and 1865 had to solve an irreconcilable difficulty, to wit: to square good sense and sound legal maxims with a vicious public opinion. And being unable to do so, it prevented them from adopting a fully true policy, and working it out logically and consistently. It was precisely the same perplexity under which Cromwell labored, and which has still bothered historians in their efforts to decide whether Cromwell was a hypocrite, or, using the language of the times, "a pretender," or a statesman that was skillfully guiding the ship of state. Lincoln presents the same enigma, with the great difference, however, that he had more kindness of heart and less Puritanism than Cromwell.

What then, the reader will ask, was really the matter in the United States between 1852 and 1861? It was, in our opinion, a process of socio-political disorganization that had been allowed to develop, and which deprived the country of the political organs and the public law that had been established under the guidance of Washington, Jay, Hamilton, and Madison. American society was no longer an organic whole; it was running back to a discordance of struggles for mastery between the respective state societies. It was really not a federal Union, but a chaotic disunion. The fundamental reason of a federal Union—(1) the abstinence and forbearance of any one state society from attempting to regulate that of any other; (2) the duty to create a total organic society for common specific objects—had been set aside, and two parties substituted for it. *They* were, however, under no express federal, national or ethical obligations to either the respective state societies or American society as a whole. And whenever the ethical developments of a people are thus interrupted, it sets in motion unethical developments; and force, or unreason takes the lines and runs a country's politics, until the hardships, the disorders, and mischiefs become so intolerable, that the conception, of the necessity of public organs for the formation of an intelligent, virtuous, and wise collective public will, again takes effect and seeks to restore order.

Hence the right to secede, and the right to coerce, need therefore not to be sought for in the Constitution; both are abnormal conditions, and exist because the right processes have been set aside. The South wanted to secede, because it felt, that it could not be *well* under the then prevailing animosities against it. The North was half willing to agree to this, provided its pride had not been offended. War came, like a heroic cure is adopted by doctors that have temporary diseases to correct in patients that have vigorous constitutions. Such patients have to and do stand an enormous amount of doctoring, but the perception comes at some time, that a correct course of living is the better physician, and they will then call in the persons, that will instruct them in the ways necessary to keep healthy. Had every American citizen, or only the large majority of them, been judges of what is right and proper in a federal Union, and there would have been a tribunal, whose voice all would have obeyed. But the reverse was the actual state of things; and this held all public movements spellbound, because the dominant party was a tribunal sanctioning wrong and corruption, from which there was no escape. America had to go on a bed of sickness, because it had neglected the proper political hygiene and violated the laws of political health.

War, open war, wrong as it ever is, was however a far better remedy, than the continuance of secret societies, clubs, and conspiracies would have been. America was very near sticking fast in these. Had they been more fully developed, it would have resembled Athens as it was 400 B.C. The know-nothing lodges, and the secret political societies in the democratic party, indicated a ripeness for them, that recalls to memory the political clubs led by *Antiphon* and *Theramenes* against the democracy they hated. The South was for awhile inclined to secret conclaves; but, to its honor be it said, it broke away from them, and when the true great service to the country was ignored, it hoisted afterwards the flag of secession. That is to say, they would rather separate than rule, as they could easily have done, by secret conclaves and the dagger. Keith struck Sumner down in the senate chamber; in old Athens secret assassination would have been resorted to. Lincoln, Seward, and Chase kept themselves, so far as we know, also free from secret political societies. After the war had commenced the Loyal League and the knights of the Golden Circle grew up again, but they were never the actual government North or South. Whether American society was too good to abandon itself to them, or whether the area over which it is spread precludes it, we care not to speculate upon. Bad as things were, let us be thankful that they were not



worse. We will not say, that the evils, that brought secession were then and are now incurable ; but we will say, that disunion, distrust, and faction must be radically cured, and that our public men must learn to be less obsequious to the many, must flatter popular passions less, before they can get out of their public demoralization, and restore the proper law and order.

## CHAPTER XXIV.

*INCHOATE POLITICS.*

"Do not make the Buck Gardener!"—*Old Proverb.*

THE science of politics relates to the formation and enforcement of the public will, and it distinguishes between different stages thereof; as, for instance, between the partially-formed, the immature or selfish, and the perfected, mature, and true-spirited public will. Inchoate politics exist where it is in the stages first described, and where, consequently, the rightful public will is more or less suppressed.

In all countries and under all kinds of social conditions are there contests between personages, classes, and interests that seek to impose their selfish wills upon the body-politic; and good social order reigns only there, where these are properly counteracted and harmonized. To do so is indeed the true object of all healthy political action. It makes no difference in principle, whether a king's egotism, or that of a class, or a special race, or of a particular party, or of some great interest, or of a multitude, is to be corrected and converted into a rightful public will; the ever-incumbent social and political duty of all is to assist in all movements that tend to this purpose. If it is neglected, or worse yet, if selfishness is enabled to make its will the law of the land, or to dictate to the country its dynastic, pecuniary, partisan, or social policy; then there is misgovernment either actually in power, or in close proximity of it. Might then goes for right, and it does not lie in the mouths of those, whose lack of resistance to wrong has brought about this pernicious state of things to complain and lament; for they but testify to their own remissness in the discharge of their public duties. People who propose to make the politics of their country a running fight, and get beat at it, have nobody to blame but themselves. They can get right only by making their government a counteracting agency of wrong, and a harmonizer between conflicting interests.

The most serious question before any human society is, therefore, always: what processes and organisms are in action among the people for evolving a public will, that has a right to be enforced, because it embodies a lawful public spirit; or, what amounts to the same thing, because it counteracts an unlawful public spirit? That the United States have on paper, and by constitutional theory, public functionaries, political bodies, and popular mediums, which are to form, at the right time and place, an intelligent, virtuous, and wise public will, cannot be denied; but equally indisputable is it, that in practice these several authorities have been, if not set aside, yet jostled out of their appropriate functions. Our politics are, from this cause, but the embodiment of perpetual conflicts between the respective selfishnesses, which claim the right to war upon each other and society for ever. This claim is, indeed, put forth, by a distinguished writer, in the modest garb: "that *if let alone* politically, conflicting interests will neutralize themselves, and thus bring eternal harmony out of eternal strife." This doctrine was also expressed by Bastiat in the phrase "*Harmonies économiques*." It is undoubtedly true, if to the words italicized it were added: "provided they are not armed with political power to self-perpetuate themselves." A private interest, whose will is law, is a standing public danger, while an interest subject to law may be, yea is, a constant incentive to produce its own and others' welfare.

The question thus recurs: What political action has a right to call itself law? All admit the rightfulness of the natural laws as found by science, but are they *political* laws? Certainly not. And why not? Because social interhabitation causes the "necessary relations between persons and things," whose reason is not nature, but the perennial welfare of society. And this requires that both the Past—being the cause of many existing conditions; and the Present—being the cause of future events—should be taken into account, and formulated into public action under the guidance of experience, present motive, and future policy. The *salus publica* furnishes the ethical or moral incentive; while individual welfare supplies the egoistic stimulant. Neither dare be ignored in legislation; on the contrary, we cannot, as Roscher says: "understand any phase of social life exhaustively unless we understand the whole; nor can we comprehend it without a knowledge of its main phases." The natural laws do not determine the civil marriage relations for persons living in society, nor those of heirships, nor of property, nor of roads, nor of inter-state commerce, and, least of all, of the

protection necessary to the weak, the young, and the aged. The natural laws prompt man to nothing beyond the use of whatever force and strength, both offensive and defensive, there may be in each individual. But social and political laws offer him those manifold opportunities and capacities, which he needs to enhance his existence; that is to say: to cease to be a mere animal, and to become a social being. Once *that*, and the necessity of constituting human society into an organism so as to secure human progress (civilization) becomes imperative. A measurement of rights and duties follows next, and ultimately attains permanence as an ever-renewed re-measurement of rightful relations. They are rightfully enacted into laws, if made with the comprehensiveness advocated by Roscher. That is done when the right of all to urge their desires and interests and to pursue their happiness, is intelligently, virtuously, and wisely measured by the standard of the perennial welfare of society.

America's serious mistake, now its chronic disease, has been, that it made the desires and interests of its individuals the standard of public conduct. This was safe, while the immensity of the landed area was in itself a limit to disproportioned personal aggrandizement, because there were no conflicts, which surroundings would not settle quicker and easier, than any social or political authority. Emigration was then the ever-ready resort as against the social inequalities and oppressions that would develop themselves in localities, and equally so against any political rule, that would be either imposed by Great Britain or arise in American society itself. But when the passion for real estate had to contend with a like passion within the same society; when to emigrate meant the deprivation of cherished comforts, of family support, and a remitter to a pioneer life, that had no other resource than that inherent in the individual, it presented a choice between natural freedom with comparative helplessness on the one side, and social order and assistance on the other. It was a choice between using the energy that was in each person in a struggle with the pursuits and interests of others, or using it in a dead struggle with nature. It was, in other words, a question of natural strength in the latter case, and one of social strength in the former. At first the choice was mostly for emigration; but year after year the number of these diminished, and those of permanent settlers increased. And of course this augmented and multiplied competitive existence in what may well be called, the home places; and this caused again more frequent and more intense necessities for measuring rights and duties, and for



doing it by a true standard. Unmeasured desires and interests could not be this for society; for, being only individual wills, they could not be public wills, nor the social and political laws of the land. They were inchoate politics, and meant not peace, but perpetual strife.

The American revolution was generally accepted as a political victory for making the unlimited desires of the individuals composing society the standard public will. But there were personages like Alexander Hamilton, Jay, Dickinson, and Livingstone, who questioned this both as a doctrine as well as a fact. They saw, that however necessary it may have been for the purpose of overcoming a practical difficulty, to give in that emergency, the political power to the *majority*, because without it it could not be an actuality at all; that yet it was an inconsistency with the principle of constitutional law. The proceedings going on during the revolutionary war for the formation of a Constitution, were fostered or thwarted as popular instincts saw therein either an attempt to restrict their cherished right to control the action of government, or a wise forecast that perceived the necessity of regular public organs for the formation and enforcement of an authoritative public will. The Articles of Confederation were really a drawn-battle between them, and satisfied neither side. The fight was at once renewed after peace was declared, in fact it began before, on the question of raising revenues by taxation, and by 1787 the arena for the settlement of the question, was the constitutional Convention that met in Philadelphia, May 14th, and completed its labors September 17th of that year. The result was a Constitution that was meant to do away with inchoate politics in the United States, but it failed to accomplish this, from causes now to be explained.

The instrument embodied a much higher public organism, than the common politicians of the United States were capable of using in politics. They first thought of defeating it, but Hamilton, Madison, and Jay, with the understood approval of Washington, prevented that by timely publications. So, after it was adopted its opponents had no resource left but to smother it through a weak imitation of British party usages, which had in fact been practised in the Colonies, and were continued in the States. The trouble was, that the usages did not fit the Constitution, nor did it fit them. Both might have been better without the other. But there was after all too much real political good sense to set aside the Constitution altogether, and too much habitual partisanism to forego the usages; hence *both* were kept up much to the injury of truth. And thus something, which

nobody anticipated; and which no sane man, whether he was a rogue or a patriot, would have instituted, and no convention would have sanctioned—an irresponsible party government—developed piecemeal, and confounded American politics. We say: confounded; because this sort of government, though professedly supported, really never had the free good-will of any true American. By the middle of the nineteenth century both parties had grown so corrupt, that it was absolutely impossible for either of them to recoil and to evolve any sound principle, or to originate a thoroughly wholesome measure.

The patience of Washington, Knox, Hamilton, Madison, Morris, Jay and others, who wanted some public authority that would evolve ethics and correct unripe and corrupt public wills, was sorely tried during the war, and more still after peace was declared. Their sorrow was, that the demagogues, who wanted to fabricate private credit out of public credit with a view to abusing both, hid their nefarious designs behind misled public opinion, and used elections for their purposes. And there was no way to counteract these movements, except to create a federal government, and thus have some ethical developments independent of local public or private immoralities. The Commissioners of New York, New Jersey, Pennsylvania, Delaware, and Virginia said in their joint report to their respective legislatures, September 14, 1786: "The situation of the United States is so delicate and critical, as to call for an exertion of the united virtue and wisdom of all the members of the Union." Hamilton, Madison, Dickinson, and Randolph were among these commissioners. There were hundreds of Daniel Shays in the States. Trade was deranged, the bills of credit issued by the state governments had grown worthless, and the legislatures catered to various so-called "relief measures," that were nothing but brutish tyrannies of bad men over good people. Men like Governor Livingstone in New Jersey, and the judges of the courts of Rhode Island, were hated and denounced by demagogues for their opposition to a false public will; and social and political anarchy seemed impending over all.

Luxurious living had grown up during the war in the seaports; the rich vied with each other in extravagance, and those of more limited means itched to imitate them. Even the country people had caught the infection from army officers that returned after the war, full of desires for an easy existence. The public will had, indeed, ceased to distinguish between right and wrong, and mistook lawlessness for liberty. Demagogues found instruments ready to their hands, in large numbers of malcontents, who were ever vociferating for "extending the rights of the people." That

phrase meant to set in motion some financial villany by which private capital was first converted into public credit, and then abused for individual benefit. Many counter-efforts were made to lift public authority out of the mire, and to organize it so that honesty would have some chance against dishonesty, or that industry might be protected against laziness that wanted tariffs, or that desired to revel in public extravagance, but mostly in vain. We may be told, that society would have relieved itself, if only let alone! But the history of the period flatly contradicts this. After a long hesitancy to employ force, soldiers had to be used, who drove the worst leaders to Canada, brought others before courts, where they were convicted but pardoned; while as usual the masses who represented a fallacious public mind, and gave the demagogues all the strength they had, were amnestied. The thing is called in history: "*Shay's Rebellion*," but it had sympathisers in other states besides Massachusetts, especially in Rhode Island.

Inchoate politics are so perplexing to American statesmen, because they are backed by inchoate religious manifestations. The two mutually support each other; for in the minds of the people, church and state are not separate. The voters mix, in their thoughts and declarations, half-digested political opinions with ill-considered religious professions, and try to force the compound upon society as a legitimate public will. They often succeed in announcing some truth, but they mix it so with errors, which cannot be reconciled with either the science of politics or religious logic, and it ends but too frequently in what may well be called political dissipation. Let the reader, who doubts this explanation, take up any public question, and he will find, that they have one and all remained unsolved, because unripe politics and unsettled religions are playing into each other's hands, and refuse to submit to being tested by objective logic. Where this is not the case, and where social questions are discussed and settled from the unbiassed standpoint of the permanent interests of society, the Americans have produced as good and as lasting sound laws as any other people. It is only where public opinion is determined to govern by its mere will, that we have the miseries of a society, that evolves no collective will of the kind that commands the approval of every well-tempered person in the land. Unkempt partisanship is its natural product.

Let us for a moment consider: whether the Constitution does provide for evolving a wise collective will? It contains elections by popular, legislative and electoral votes; it has a House of Representatives, a Senate, a Judiciary, and a President; and

all these are obviously intended to co-operate in producing the collective, or, if you please, the conjunctive public will. Evidently to take either one of these authorities out, and its totality would be different. And if you would take all out except popular elections, and the whole thing would be disjointed. Now we do not mean to contend, that there has been an entire abolition of any of them; but we do say, that their relations are no longer the same which they were originally; and that, what was intended to be a check on the arbitrary action of the others, has become the master-power. We assert further, that the effect thereof has been to give inchoate politics the very contrary relation from what was intended. The idea was, that all should act, interact, and react on each other, and that the will to be obeyed by all, should be the product of their co-operative labors and judgment. But the practice has been to use elections for prescribing rules of conduct for all. And this is the reason, why America has now nothing but inchoate politics, or, the same thing, ceaseless and senseless agitation. All parts, of the government, rule less than they ought to do, because all feel instinctively, that the inchoate public will should not be obeyed.

The slow but certain effect of the course thus pursued, is plainly visible in the steady lowering of the character of our public men. Washington was sincerely for the constitutional conjunctive public will; Hamilton would have had less popular eccentricity in it; Adams desired a freer administration; Jefferson wanted less federal authority and more state sovereignty; Madison wavered between Jefferson, Monroe, and Hamilton, and followed precedents; J. Q. Adams prevaricated between old federalism and new republicanism; Jackson would have established a democracy, that was neither in the Constitution nor in his own mind, well defined; and Van Buren, the first child of it, became its first victim. And after that, Tyler, Polk, Taylor, Pierce, and Buchanan were but feebly rowing against a stream, that was rapidly running them into a catastrophe. Lincoln, the President whose good sense and kind disposition would have restored the Constitution, but whose fatalism foiled all his intentions, became a gravedigger, where he would have been a resurrectionist. He was the ultimate of a series of disintegrations of the Constitution, that all had their origin in the substitution of inchoate politics for those of the Constitution. Washington, who would have warned his country against the cause of all this mischief—party spirit—thus speaks of it in his farewell address:—

“There is an opinion that parties, in free countries, are useful checks upon the administration of the government, and serve



to keep alive the spirit of liberty. This, within certain limits, is probably true; and in governments of a monarchical cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And, there being constant danger of excess, the effort ought to be, by force of public opinion to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance, lest, instead of warming, it should consume."

These words, so admirable, so prophetic, read like the definite scientific instruction of the masters of political economy in our day, who, having the course run by the French revolutions as well as our own political movements before their eyes, can now judge modern party governments even more objectively than Washington. *He* held them to be "irregular oppositions to acknowledge authority;" scientists say: "they are attempts to rule the state through unripe (inchoate) public wills." He saw in them "the spirit of innovation, that would undermine the Constitution;" scientists see in them "the entire abrogation of regular government, and a substitution of party rule." Washington and Science coincide in predicting from them, *Imperialism*, as the only logical sequence of their illogical procedures.

It is wonderful to contemplate, that, while we now see that these procedures ended in the worst of all enchainments of human society, to wit: an inability to do, what it knows it ought to do; they were regarded, by those who conducted them, as the grandest success in freeing mankind. They asked: Were the American people not the least governed people in its hot pursuit of happiness? And it did seem for a while as if American society was the realization of the dreams of poets, to wit: a self-governing people without any government. Every branch of public authority acted as if it owed an apology to the people for every measure enacted or carried out that had not previously been sanctioned by the people! And the most iniquitous laws were passed and justified, because some popular vote had been cast in its favor. The practice became finally habitual in legislative bodies to enact statutes whose validity was contingent on the subsequent approval at the polis. Every public man squared his conduct by the last public will expressed at the ballot-box, and *he* was considered the best politician, who could even anticipate the public mind. It was like the old weather prophecies, much of it guesswork; but it nevertheless elevated the lucky individual in the public estimation. But

was it not an idolatrous worship of the people? Are not the masses, in this respect, like kings?—the less reverence they deserve, the more they exact.

The most remarkable thing in the inchoate politics of America is: that with all its admiration for its ideal (the people), it could not bring itself into some unity, but had to form a duality, two parties, which are both the negatives of each other, as well as of the people. Ever bent on beating each other, they ought to know by this time that the life of the one is the life of the other, and that the death of one is the death of both. By 1820 the old federal party had expired, but within the next four years the old republican party split into fragments from dissensions, which the rivalries of Adams, Clay, Crawford, Jackson, Calhoun, and Clinton had produced. These events should have taught the American people that its society had abandoned its unity in government for party objects and the ambition of their leaders. The lesson was repeated in 1848–52, when the old Whig party died, and when decrepitude at once entered the democratic party. We may well ask: why political parties live by each other's antagonisms, and die when they cease to brace the other up? It seems to us to spring from the fact, that no public organization can have self-sustaining vitality, that does not produce a collective public will, one that can be the law of a given society and of all therein, that are actuated by true public motives. As the *half* of a nation cannot do this, it engenders in each half the tendency to produce a counterfeit, and the two counterfeits hold each other up, like drunken men leaning against each other.

The proposition, which we have wished to enforce in the foregoing, may now be expressed in few words, to wit: that as millions of negatives, however often added together, cannot amount to an affirmative, so cannot millions of inchoate political wills, however many heads may be counted for them, amount to the rank of positive politics. Each election is proof in point; and those participating in them feel it instinctively. During the canvass *all* labor to stir up and to excite the popular passions; and yet they secretly wish it was over, because they know that it will amount to nothing. This shows, that there is no sense in this thing, that it is but froth, and that it is a barren waste of the vital energies of the nation. The proverb says: "Those who hardly earn the straw, get the oats;" and it is just so in our politics. The confidence withheld from regular government is freely granted to irregular government parties. All our politicians (Calhoun and his special disciples alone excepted) have thrust matters and things into the party cauldron which they would not confide to Congress, nor even trust to courts, much

less to the President. States-rights were presupposed to be safe with the people, provided they (the people) were divided into two parties; but unsafe, even with them, when acting in unity through government. Events have shown, that the most dangerous thing to society is an agitation, for whose solution and reduction into positive action, there is no regular organ, or if there is one, it is set aside. Inchoate politics mean, for ever going apart in wrong action, and never coming together in a conjunctive rightful action.

The world has in a similar way tried to get positive religion through the organization of two or more churches; but they have ever produced nothing except two or more hostile forces, which stop each other from evolving truth; because they stiffen each other in their falsehoods. They do not even stand guard on each other, unless standing stock-still is doing this service to society. But we know it is not so; on the contrary, it is a wise saying that "standing still is falling behind." And that has actually taken place in the United States from the very moment, that Hamilton and Jefferson inaugurated their two parties, and produced antagonisms, but no government. It was a party that invaded states-rights,—a party that disestablished honest money,—a party that levied protective duties,—a party that made the public service the spoils of ambition,—a party that, with freedom on its lips, became a *tyrannis*,—a party that drove the country into our wars, and it was a party that subjected municipal government to partisanism, and corrupted government down to its minutest details! It all rested on the unfortunate idea, that when society organizes positive government (political authorities), it is losing its liberty, while when it organizes two negatives (abnormal rule), a dual party government, it is gaining freedom; as if it was not the same society that did both, and as if history had not long shown, that it does the first, when it is in its best spirit, and it does the other, when it is in a state of transition, and hardly knows: what to will and what to refuse.

One of the most mischievous phases of inchoate politics in the United States arises, as we pointed out already, from the constant intermingling of ecclesiastical with partisan motives. Church and party interests multiply and intensify each other, and add their dead weight to other unripe and uncorrected opinions and desires. How is a rightful public will to grow, if it is ever choked by weeds, that are constantly being propagated by ecclesiastical and partisan proclivities? They exist in other countries also; but in those that have the higher civilizations, it is preunderstood, that they are not the law of the land, but merely numerical majorities, that must be tested

by processes of discussion at the forum of public intelligence, virtue, and wisdom. *Here* the chief object of all disciplinament of the public mind is : how to carry elections ; and the temptation lies ever near, to effect this purpose by appealing to prejudices, that are more than willing to be latched to any pretended cause that promises them an indirect success. Thus infatuation and hypocrisy join teams, an unconstitutional church influence comes in aid of an equally unconstitutional party influence, each side hoping to circumvent the other. After the election is carried, the victorious party ends it all, by appropriating all the success to itself. And thus inchoate politics are made to play the shuttlecock, driven backward and forward by the designs of partisan and ecclesiastical bigots. The formation of the true public will is, if not stopped altogether, at least severely retarded.

The queerest part, of all these manipulations, was, that these partisans were ever using as scarecrows, their elder brothers, the bureaucracies and priesthoods of other lands and times ; as if the bad men *in them* did not fish in the same muddy waters (inchoate politics) as their modern co-fraternities. The demagogues kept the public from seeing, that they were only *so far* sincerely opposed to hierarchies and officials, as they were rivals with them in abusing popular confidence. Wherever and whenever they were subservient to their main object,—the enjoyment of public spoils in offices and contracts,—they fawned upon the very priests and bureaucrats, whom they had but a little while previously denounced. And fittest for such mutual support were, of course, those parties and those churches, whose body of followers were most sunk in the respective zealotisms, and were therefore most bitterly opposed to any and all developments of an intelligent and rightful public will. The demagogical clergyman, as well as the politicians, felt instinctively that they had an open-shut game in their hands, if the votes of mere numerical majorities determined the country's policy ; for they had the numbers in followers who obsequiously obeyed impulses, which they had been persuaded to pursue as their highest interest. That these impulses represented uncorrected opinions on the part of the followers, and selfish desires on the part of the leaders, was adroitly concealed by a sharp cultivation of self-admiration among the flocks of the respective sheepfolds, in making them flatter themselves that their crude opinions need but “adding together” to change them into a rightful public will.

Why will America persist in attributing to elections an apodictic quality, which they have not in the Constitution, and



in fact never can have? It lames the whole public organism; because it represents *that*, as wholly done, which is only very partially performed. The "elect" are hampered in every step they take; they fear to act in emergencies, and are afraid of the promptings of their own forecast, because it is considered disrespectful to the people to act before they have spoken. To ask them to be the mere executors of the orders given through the ballot-box, is as senseless a procedure as the procedure of the Venetian Council was, that sent its admiral to sea with sealed orders, written in a language which he did not understand. He had to return for new instructions, and the object of the equipment of the fleet was lost in the meantime. Those who elect are placed in a false position, when their votes have ascribed to them an effect, which they do not and cannot have. Their votes become thereby worse than a nullity, viz: a false light. Rightly used, as self-recorded statistics of the prevailing desires and opinions, they are of priceless value to society. And we, who are used to them, can hardly understand how monarchies, aristocracies, and hierarchies could find a wholesome public will without them. But pervert them by attributing to them a final authoritative power; and we comprehend, why men shrunk from them the more, the better they understood the nature of government.

How to check and make safe the personal inchoate will of a king, has been the question of the statesmen of Europe. It is their glory, that they conceived the necessity of restraint, and insisting on it, secured it. What have our public men to show as to limits on our sovereigns? They may answer: the case is different, both as to the law and the facts. Let us see! Kings were once as omnipotent as our sovereign people. Their smiles brought honor and profit even greater than those of popular favor. But, opposite kings, stood *Cids*, who would ask them to swear to respect the rights of men. Was there ever a *Cid* who stood thus before the American people? If not, then tell us: why not? Can you give any other reason, than the poor one, that inchoate politics are quicksands that allowed no rest for men's feet to stand on? And we admit it; for it brings before us the vast wearing-out of public men in America, and the agonies they undergo in their swift-footed race over these quicksands. It explains, too, why they all leave the public stage with a low opinion of the people; which posthumous judgment reciprocates as to them. *Then* the mutual dirty work comes out, and the world sees the reciprocal corruption. And thus we perceive: why popular power has never been well restrained in America, and why we have no *Cids* in our politics.

Schiller makes Philip II. say in "Don Carlos"—

"Proud do I like to have my Spaniards."

Has ever any poet put such words into the mouths of the American people? Marquis de Posa could ask the autocrat of Spain—

"Be you among many kings a king?"

But no one, so far as we know, has told our people to be such in the highest sense. All our people are asked, is to ferment, and then to count the bubbles that rise to the surface, and call that Government.

There is, however, an aspect in this mutual degradation of the people and our public men, which we must now look at. It is this: that governing by effervescent popular opinion precludes good men from public positions. The popular mind is, on any given subject, never right, before the matter is thoroughly discussed; no more than "*must*" is good before it has become fermented wine. The men who say, that they coincide with an inchoate public will, are therefore either men that are incapable of forming correct opinions, or they are hypocrites. Every election of such men confirms, therefore, both a false public mind and a false public character; for the man will claim, that his personal capacity is indorsed by the people; whilst the latter will insist, that the assent of the man to their opinions attests their correctness. The pride of both is intensified, and it becomes next to impossible to correct an error and to form the true intelligent, wise and virtuous public will. Men then despair from attempting it, and this engenders in them the conception, that the readiest way to counteract a popular misdirection is: to start the people into some new plausibility under some new catch-phrase, and thus to drown the old folly in a new craze. A round of incessant casuistic agitation is thus set in motion, that imparts to all public movements a foppishness and coxcombry, that won't let the people rest, however tired and worn-out they may be. The public men, on the other hand, become *roués*, whose passions are greater, than their capacity to gratify them. Of course people and men become disgusted with one another and long for ceaseless changes.

A distinguished journalist of Cincinnati (*Hon. M. Halstead*) wrote once, when discussing the propriety of voting the public credit in aid of the southern railroad, that "Constitutions were made to let the people do as they please;" and we quote the remark, with due respect to the author, as containing the full aberration of popular political ideas, at which we have arrived;

the reverse being the truth. Starting from Washington's axiom, that "the very idea of the power and the right of the people to establish government, presupposes the duty of every individual to obey the established government;" and ending with the just-quoted sophism; and we can see how the marrow has been taken out of our political institutions, and how we have, in a roundabout way, returned to the very status, which all government is intended to relieve us from, to wit: the arbitrary will of individuals unrestrained by morals and laws. The legal maxims of great jurists; the religions handed down to us by our ancestors; the literature of all ages and nations, have survived the hour in which they were first uttered, only: because experience showed them to be conducive to the permanent amelioration of human society. They survived and came into our constitutions and laws, because they were the ripened thoughts of the intelligent, the virtuous, and the wise of the respective time. And that gained for them the consent of all, who valued the perennial welfare of society, above the fleeting bubble of a particular generation. The latter have been forgotten, or are remembered only as warnings against following their example, though they were at one time popular and swayed the multitudes.

The best status of mankind in morals, laws, and wealth can be reached only in a society, which measures its present wants by the standards of experience recorded in books and learning of all kinds, but which also lifts itself out of the old ruts by the help of progressive science, and an honest outlook to the future. Neither past experience alone, however sanctified it may be by time; nor present wants and interests alone, however intensified and fostered they may be by increased capacity to produce wealth; nor future outlooks alone, can furnish mankind with the rules of conduct proper for a highly-civilized society: it takes *all* of these, combined into a wise public will, to bring to rights and to harmonize the conflicts that continually arise from out of social interhabitation. If society is either frozen fast in ancient institutions, or has nothing to direct it except desires to satisfy present wants, or if its futurity be Utopian, or mere unbridled imagination; in neither of these conditions does it work out a good moral or political status. Its course would resemble that of ships run by nothing but dead reckonings. *That* mariner runs the truest course, who uses all the appliances furnished him by the science of navigation. So, *that* statesman will best direct society, who combines in his policy the ingredients above referred to. And so those constitutions last the longer, the more provision there is made in them for evolving

continually a wise public will, and for avoiding inchoate politics. The Constitution of 1787 has this merit in a high degree; it has not been improved upon since.

"After every revolution," says Gneist, in his "*Rechtsstaat*," "public power falls not to the people, but to society." . . . "Popular sovereignty is the sovereignty of society, *i.e.*, that of the ruling social classes." . . . "These generate opposing interests and social contrasts, which cannot harmonize socially in and out of themselves." We conclude, from this, that the self-harmony of social economies and interests are the *pia desiderata*, the flowers, so to speak, generated by kind minds like Bastiat's. We would like to believe them, but the rude jostlings of French as well as American society, have shown them to be but dreams, not realities. Gneist adds: "As the individual has to overcome the conflicts between his desires and impulses and his moral duties by his free resolute will, so is it the eternal destiny of all human social communities to master the contrasts of opposing interests, and the unfreedom they involve, through political (*Staats*) organisms." America is determined to deny this proposition; the Fathers admitted it, none more than Washington in his farewell address. He saw the chaos of inchoate social politics, and he warned his countrymen against them in the words: "You should with care resist the spirit of innovation upon its constitutional principles, however specious the pretexts. One method of assault may be to effect, in the forms of the Constitution, alterations, which will impair the energy of the system, and thus to undermine, what cannot be directly overthrown."

And further on he states his chief apprehension—

"Facility in changes upon the credit of mere hypothesis and opinion, exposes to perpetual change from the endless variety of hypothesis and opinion." And again—

"For the efficient management of your common interests, in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty is indispensable."

Washington was the last man among all the revolutionary Fathers, who could have been made to trust to a government run by inchoate politics. He wrote to *Henry Lee* the pregnant words: "Influence is not government," and he added: "We want a government that secures life, liberty, and property, or let us know the worst at once."

Inchoate politics mean the antipode of the "*Rechtsstaat*"—"a government in which that is law (right) which should be law (right)"—no mere counting of heads (ballot-box), or arbitrary popular wills, or party resolves can furnish that. To attain



it, requires the co-operation of society with culture through universities, deliberative assemblies, independent judiciaries, and free executives, in the formation and execution of an intelligent, virtuous, wise, collective will.

Were Washington alive to-day and he would see what we have tried to point out, to wit: that the ballot-box is the vehicle of inchoate politics, of indefinite answers to crude public questions, put by platforms drawn up, to be "*ticklers*" for a self-deceived society. Would *he* not tell us, that *it* cannot be good government, except by accident, and that its bad government is but its logical outcome?

Society, to rule right, must become organic; or, the same thing, self-conscious. It must do what nature does through organic matter, or it can neither have free parts nor be free as a whole. It must call out, from within itself, its superior intellects, virtues, and wisdom; its men of genius, talent, and discipline, men who learned to obey, before they claimed to rule, who were, however, never slavish in their obediences, nor arrogant in their governing; in short, men like Washington, Franklin, and Madison. That such men are now impossibilities, in American public life, is the severest condemnation of our "Inchoate Politics." It is the rule of unreason over reason; of arbitrary popular will over the collective will; of passion and prejudice over ethics. It is in public government, what exists in individual self-government, when the desires of the stomach, the eye, the ear, or carnal proclivities, are not subject to moral reason, but are the sole rule of human conduct.

The most serious difficulty of the inchoate political will is, however, the vagueness and uncertainty of its voice. It cannot speak, what it would say, and hence it is ever made to speak what it really does not wish to say. No sooner is its voice uttered, and disputes arise as to what it meant. In a country like America, we have thus superadded, to the perplexity of all government, the perplexity as to which inchoate will shall be the rule. This undermines the Constitution in its most vital basis, the understanding of and obedience to it, by the people. It is the same trouble, with the same consequences, as there was in ancient times with kings, who made divination the condition of their confidence; they would always be the victims of councils, which either accidentally or by shrewd guessing had the greatest semblance of truth. The pawing of his horse made Darius king; it expressed the will of an intelligent man, who pre-calculated the noble animal's action from natural reasons; and whenever the ballot-box speaks intelligently, it does so, because it expresses the forethoughts of wise leaders.

Did our people but reflect, while going through the political campaigns previous to elections, and they would see, that conventions, nominations, stump-speaking, editorials, public meetings, torch-light processions, &c., &c., are all very crude, very costly, actually degrading and deceptive methods; and that they cannot inject into inchoate politics, what never can be in them, a *per se* intelligent and intelligible expression.

And it is fortunate, that very often, as in the election of Jackson, the men chosen did not carry out the inchoate public will of those who voted for them, but obeyed their own subsequent better judgment, formed by being brought in contact with superior minds, and the agencies by which, if at all, a good collective will can be formed.

Two processes, often resorted to in olden times—*first*, that of the Saxons, Franks, &c., submitting previously-prepared and well-digested propositions to popular sanction; *second*, that of placing the popular edicts under the reflection and action of authoritative men—are left out in our governmental idealities. According to our theory, we neither prepare *for* the people, nor compare *after* them. Our plebiscites are ballot-boxes with mute votes in them, voted by men deaf on one ear, that of the country, and acutely open, to party noises, on the other. No wonder that each election is but an expensive burial of much writing and speaking.

In conclusion, and summing up the whole subject, we concede, that in Europe up to the French Revolution the inchoate public wills were not allowed their proper share in government; but insist on it, that since, and particularly in America, they have usurped an undue share. Progress, in political matters, has accordingly been useful and beneficial as long as, in pursuance of a wise object, right after right, or if you please freedom after freedom, was given to social enhancements within limits fixed by the wiser, more virtuous, and intelligent portion of society; but as soon as this line was crossed and the inchoate wills took the reins and tyrannized over, or subjected the collective will to their sway, then began a destructive course, with which the permanent welfare of society becomes incompatible and produces anarchy and demoralization. At that worst stage<sup>1</sup> America would long ago have arrived, if it were not, that within its wide domain and great natural resources the intensifications of wrongs were always only temporary, and never very intense or destructive.

<sup>1</sup> Those whom it will interest to know, which stage is the worst, will find it described in the *Edinburgh Review*, April 1877, under the title "Brigandage in Italy." In principle we have the *mafia* all over the country, and not in the south alone.

## CHAPTER XXV.

*AMERICAN WOMEN POLITICALLY AND SOCIALLY CONSIDERED.*

"I gave all the money I had and one good-sized person besides to my country, and yet I can't vote!"—*Dr. Susan A. Edson.*

THE reasoning contained in the foregoing quotation would be unanswerable, if giving money to or serving a country were the criterion for conferring the elective franchise; and it is not, because we wish to depreciate her services or gifts, that we tell her, that she is mistaken, and that the right to vote rests upon entirely different reasons. The lady had served with great success in the sanitary department of our late war, and she received, as she was entitled to, the special commendation of the commander-in-chief as well as the other officers who knew her merits. We know, that the lady herself would recoil from the proposition to confer the franchise on all who labored in the hospital service; especially if she reflected, that her logic would carry this right both to those who aided the North as well as those, who stood by the South. It would also call, for letting all youth under eighteen vote who were in the war, and also all foreigners. There may be injustice in denying adult females the right to vote in a country where this right goes *per capita* to all adult males; but her qualification contains an equally unjust reflection against all persons, who served their country at *home*. That *these* are the better voters, if the permanency of the nation and the welfare of society is the object, even Mrs. Edson will admit. Perhaps she would join us also in holding, that the unsafest voters are persons who assist a people in their strifes?

Considering the conflicting views which are abroad, it seems to us proper to present a few general observations by way of predication and with a view to path-finding on this topic.

Society stands to-day in the midst of a series of abrogations of arbitrary conferments, as well as exclusions from the elective franchise and other political rights. In America we have nearly touched bottom as to the universality of the right; but no one will say, that we have risen to the height of an intelli-

gent use of the ballot-box, so as to make it express truth and good sense to the listening statesman. We have preserved in corporation elections and a few other concerns, the right of sensitive interests to control the direction of these bodies; but in all public matters we have drowned the mental capacities of our population beneath the mere physical *per capita* voting qualification. We may have to go to the final conclusions, of this our course, and remove every barrier to the exercise of the franchise as to persons, who have heads on their shoulders, and it may indeed be wise to assist in this culmination. But the only justification of these steps will be the fact, that society will then be compelled, by overwhelming necessity, to take up the subject anew and to readjust it on a correcter basis, and for better reasons, than *per capita* voting, and the right to govern with the ballot-box, gives. The query is, however, allowable: whether we had not better *now* take up the subject by the test of principle? Or, putting the issue as the "women question," we ask: Whether the women, who are so justly alarmed at the work of our present elections, had not better insist *now* on a radical reconsideration of the whole subject? We men are told that we are too late, that a franchise once conferred cannot be either taken away nor altered so as to take away its abuse for mischief. And this suggests the inquiry: whether, after we have beside universal male suffrage also universal female suffrage, we shall not then have a double, *too late*?

Believing that now is the time for discussion, we present, as the initial point, by fastening to which we may get out of the labyrinth of sophistries into which the war, or rather its partisan causes, have plunged us, the wise maxim of *Solon*:—

"Public safety does not consist in giving all liberties to all; but in conferring on each respectively the rights and the functions, in which they are most useful to the State and themselves."

Apply this standard to the subject before us, and it directs our inquiries to the relations of the adult females to society and the State. And a very short consideration brings us at once to those three, universally confessed to be *good*, relations: those of wife, mother, and the economic head of a family. A distinguished writer has well said: "There can be no noble society in the true sense without the first two in proper form; nor no rich nation without wise housewives." There are degrees of usefulness and variations in form, but it is self-evident, that society and states are there best organized, where most adult females are carrying out, in freedom, the already-named triune social functions. *There* all are most sure to have the greatest comforts in housekeeping; the best tastes in matters of propriety



and of beauty; the soundest morals through good wives; the wisest outlook to the future through motherly care; and the best use as well as saving of male production and income. The past, present, and the future will then be best linked together, and there will be a perennial fountain of stability, wealth, and security. It is so, because there women fulfil, with the fewest exceptions, those relations, which nature, social necessities, and political institutions everywhere assign to them as the positions in which they are most useful. And it has been, as we shall see, the happy effect of past American social conditions, to facilitate the attainment of this status in a high degree for the largest number of women.

The three functions of woman, of which we have spoken, get each their most vital as well as most proper development in the privacies of life, while the work of man is chiefly public; for it relates to the production of means for the family, which must be accomplished through more or less strife with others. But man gets his main recuperative energies at home, and he cannot get them anywhere else as well, if at all. And if woman fails him there, he lacks the standbye in life, which he so much needs. Any social condition, therefore, that either unsettles family life and its privacies, or interferes with the constant recuperation of male energies, invades and disturbs social order. The sure indications of this unhappy social condition exist, when either men or women look largely for comfort outside of family life; and especially, when women in large numbers quit their private sphere and become public persons. Then they grow into a sort of defective male; society loses both its economic as well as moral balance, and the body-politic ceases to evolve true ethics; for then, all being out of their proper place, they originate all kinds of spasmodic efforts at curing the social evils which all soon begin to feel, which then however few understand, and which none have the capacity to probe closely, and to correct radically by themselves alone. We cannot particularize any special form hereof, for they are manifold, from the most ecstatic asceticism to the grossest austerities; and from slippery libertinism to weak but pure-minded platonic idealities.

Until America was discovered, Europe had to combat the various excrescences, that grew out of the abnormal social relations of the sexes, which the constant wars produced, as best it could, by its own interactions and reactions. Both the lower, as well as the higher orders of society, had more faulty females than now. And only in the middle classes were women, who fulfilled well the triune functions of which we have spoken.

America, and particularly North America, came in aid of them in a threefold manner: first, in opening new fields for social and political development, without producing social disorders; second, from the fact, that the exotic ideas, of would-be reformers of society, could be tried with the least danger to social order; third, in furnishing to the women of the lower immigrant classes an opportunity to come here and improve their conditions up to standards furnished them by the superior women of the middle classes of Europe. To *their* innate good sense we owe all the improvement in female existences, that distinguish the New from the Old World.

The latter perception is the essential one, for understanding the woman question in America; for it had its counterpart in all those movements, that made America the experimental ground for reforms in morals, that had for their primitive source European society. Indeed, I but speak what every intelligent American woman will at once echo with her inner voice, to wit: that they improved themselves with an eye to their sisters in Europe. And they did and are doing remarkably well in all things, except where they took, as loadstars, some piously-exalted or politically-mystified European female personages, who, at cross purposes in Europe, proved crooked sticks here. They, and their helpmates here, always interrupted the true American process: that of starting a new civilization on the basis of common sense.

The main body of American women, who sprang from those middle classes of Europe, that came to America to enhance and not to narrow their existence, never took to the austerities of (imported) puritanisms; they took them in hand, modified and corrected them, in spite of persistent clerical efforts to keep them intact with old transatlantic models. Whether these best women of America would have succeeded? if Europe itself had not progressed, and sent over continuous new streams of unaffected women, as reinforcements to those here, who like themselves were against undue dwarfings of social life, is not for me to tell; for I might be called an interested witness, being foreign-born. But this I will say: I always found those the best women in America, both native and immigrant, who easily affiliated with and readily learned from each other their respective household, not church, virtues.

America has shown, that with easy acquisitions of wealth, even the low-born European woman quickly transforms herself into a higher-grade wife, a more ambitious mother, and into a housekeeper, that competes with all her neighbors. America has, however, also exhibited, how rapidly a wife, that is no housekeeper, and neither understands nor inclines to economy,

becomes a poor educator of children, and a discontented, mawkish wife, that drags down a family in spite of the best male industry. No country has had more good homes, of the highest standard, built up by its good females, than America, but none has had so many pulled down by the bad ones, as this New World. We have had here the most useful females, but also specimens of the most useless kind. But it nevertheless remains true, that, on the whole, the good women have far outnumbered the bad ones; and on fair comparison it will be found, that one of the chief elements of the faster growth and higher social and political development of North America, are the women, that have peopled it.

Had the mass of our women had adequate female help, and understood how to supervise what they had, and much of the ill health and the early fading of beauty, so often talked and written about, would have existed here to even a less degree, than it exists among the upper classes of Europe. There is an innate love of utility and embellishment in woman, which has here such free play, as compared with Europe, that the number of lazy women is not likely ever to be very large, as long as we shall not have social customs that encourage them. We wish we could say, that there need be no apprehensions on that point, but we cannot; for we have too much evidence the other way. We can and must, however, state, that the common representation of American women, which pictures them as lounging all day in a rocking-chair, is not only an exaggeration, but a misunderstanding itself. The rocking-chair is preferred, not for lounging especially, but for its greater general convenience to females, as a brief relief from many household duties. It is so with many other of our household utensils; they are different in America, because calculated for families that have to do their own work, and not, because American folks are naturally lazier than Europeans.

A greater misconception, than the one just remarked upon, could not well be; because it overlooked the main fact in American social conditions, that both husband and wife, as well as sister and brother, and also the beaux and the sweet-hearts, were necessarily more to each other here than elsewhere. There were here from that cause also higher standards of living for all. The husband was much his own hired man, but also his own lord, and the wife largely her own seamstress, cook, nurse, as well as chambermaid, but also her own lady. It was not always smooth sailing; nor did the reconcilements and understandings come either in uniformity or at once; and yet they had the general bearing of which we have spoken.

Slavery and the negro were to some degree used as solvents of the harsher points in all parts of North America; but climatic causes made this more feasible in the more southern regions. Hence a different model lady and gentleman grew up amidst negro domestics, than in the northern households, and this was more marked with the female sex than the males. The women of the South were more æsthetic; those of the North were more practical. The virtues of the first were more of the type, which the age of chivalry had prescribed, while those of the second were patterned more after the standard of the housewives of the old country middle classes, or rather the richer burghers thereof. And there was a corresponding different development as to errors and vices. Both were much self-opinionated, but the southern women most. The self-exaltation of the latter, consequent on her having her work done by an inferior race, gave her conduct a punctiliousness, which, when it was not matched with culture, looked ridiculous. Less apt to fall, they sunk deeper *when* they did fall. There were among them few vulgar women, but what existed, were it disgustingly. The southern women relied for their safety more on conventional rules, and were more conservative in politics; whilst the northern women were more apt to demand enactments for their protection against social evils, and were more aggressive in politics. Sabbath and temperance laws are instances hereof.

The reader must see, that, as elsewhere, so did in America new social rules and political relations arise from changes in individual pursuits of happiness according to the necessities of the respective society. The peculiarity of American conditions was, that there was in them an intenser individualization, and this perhaps more even among the women than the men. It was indeed the fundamental conception of the liberty they wanted. The right and wrong of this is thus stated by *L. von Stein*:—

“In reality there are no single individuals. They emerge, indeed, first as such from the purely natural unity, which we call the family,—as children; but they return to it through marriage. There can be no doubt, that this fact, whose logical comprehension we presume to exist, has a deep ethical importance. It has it, because it embraces all mankind, and is the manifestation of a force, that transcends all individuality. It makes the family the first natural unity of all economic life. It rests on the further fact, that in this unity, which—mark it!—is not like or identical with, but in their very nature unlike, the productive and economic forces, they are combined and made



dependent on each other. Their main task is therefore to recognize their actual union as an economic *organism*, in which their very diversity is the condition of their mutual development. It is the microcosmic form of the world at large; for there also the deepest differentiation leads to the highest human communal interhabitation, and limits as well as produces progress. And this is easy as long as we have in our eye the diversity as to sex, but difficult, when we look only at personal similitudes."

He adds: "Whatever we may say about the difference between the sexes, and as to their respective physical or psychical faculties, it is the economic family life, which lets us first comprehend the whole matter. For the initial point is, that outside of the family there is no absolute difference in the destiny of man and woman; that in fact there is in the real world of active life *no man* and *no woman*; that *in it* there are only human beings, that possess different capacities, but have the same identical problem to solve. Not in the exterior difference of male and female then, but in the unity of the family and the household economy, begins what we moderns call the 'woman question'; but in *it* we ever miss the point, that the cause of the laboring females is but a special phase of the general labor question."

"Were man and woman alike in their economic faculties, and there would absolutely be no economic idea in the family and the household; there would be only individual faculties, capital, bargain, enterprize, and business. Were they, however, *only unlike*, and there could be none of that unity which, with or without reflection, is daily renewed. If the family is then the unity of the different, it can be this only on one condition, to wit: that each of the different elements is the precondition to the due development of the other. This mutual interdependence is its purely ethical moment, but it forms also a series of observations, that allow differences of opinion."

We have quoted so largely, because these extracts bring out fully the mistakes of the arguments usually advanced for so-called "women's rights." They rest on comparisons of likenesses in individual capacities and personal attainments; whilst the identical interest of both, in a common destiny, should be the basis. Family unity, with exterior personal unlikeness, being the source of all ethics and morals, it is easily seen, that demands, for equal or identical individualization, obstruct all ethical development. They mean simply, that men and women shall not be all they can be to each other, to society, and the State. They ask for equal employment, while differentiation is the only way by which

to each can be assigned that function in which they are respectively superior. It is the same error as that of the Christian women, who would be nuns, because their brethren were monks. Intense piety was then believed to be the passport to personal distinction and ambition, as it is now intense political fervor. The axiom long ago announced by Confucius presents the true touchstone in this matter; it is that "nothing can be a good moral rule for a community which cannot be recommended to all as a proper course in life." Is celibacy such a rule? Can you bring a fashionable idle woman within its compass?

We cannot, therefore, be too thankful to the earlier women of America for their clinging, as much as they did, to the American family as the fundamental social and political unit. But we are specially indebted to them also, for their accepting, as the model for all American women, such ladies as Mary the mother, and Martha the wife of Washington; both being equally illustrious examples as the economic heads of their respective families. They are the only great women we know of, whom every woman in the land can safely use as guides in their best conduct.

The more we analyze the character of these two ladies, the more we must see, that it was not an accident, nor the worship of an accidental fame, that constituted them into the model women of America. It was, because the one could be the normal American mother, the other the standard wife, and both the model heads as to good house economy, for all American women. They were not isolated specimens of female superiority. No! they were distinguished, because they filled well all their stations in life from an inner wisdom and adaptation to the vicissitudes of life, even in those, which make most women giddy. They were exalted, and have remained exalted, for their best quality, that of acting out the utmost propriety in *all* their conduct. The good mothers and good wives of their time have handed their names down to their sons and daughters; and they are such singularly useful models, because, though eminent, their example may be followed by every American mother and wife to the latest generation. They were such complete American women, because they were English, Protestant, wealthy, educated, economic, and patriotic; but had all of these qualities in a large sense, and free from any pedantic narrowness. Being two *realities*, their character may be for ever a useful standard of female conduct in America. As such they should be preserved, and every attempt to turn

them into mythical personages should be persistently opposed. How can human characters, that have no actual existence, or whose lives are practically so embellished that their real character is lost, be models for society?

Now, Mary Washington, the mother of America's greatest man, was not only a real woman, but she was a realist in all her ways, and that makes her pre-eminently the American model. She placed before her son not alone the Bible, as Judith, the stepmother of Alfred I., had done, but also the latest best work on religion known to her—Sir Matthew Hale's "Contemplations, Moral and Divine." She did more: she read this and other books with him, and added a mother's virtue to the wisdom that was in them. And this her instruction gave to Washington the best ancient but also the best modern thoughts and sentiments then accessible. They were thus deeply engraven on Washington's mind, and that is the reason why he was so religious without being a bigot. It also taught him to have political equanimity in all his opinions and actions, for he knew that Hale defended both Earl Stafford as well as Charles I. Washington was a republican, when he was a royalist, and it aided him in finding his own way afterwards, from a sincere loyalty to England and its king, to the highest love of his country and its republicanism. Mary Washington raised a President and a model statesman for America without knowing it; in fact, having not the slightest ambitious designs herself; but by far too many of the mothers of our day think of their sons as future Presidents; miseducate them, and fill their own and their sons' minds with partisan passions, and, of course, raise no Presidents in any good sense. Moreover, they drill them into the pietistic dogma of their favorite church, and make them either credulous fanatics or sceptical hypocrites. They have even dared to invade Mary Washington's real personality, and to manufacture a pseudo-model female in her stead, that resembles themselves, not the mother of the father of his country.

Martha Washington was a very different woman from her mother-in-law. She did, what the other did not,—marry a second husband; she had married the first when but seventeen years old. There is nothing wrong in either of these acts; they prove, however, that she was free from the romance, the hypoplatic amorosness and the spiritualistic love-sickness of so many of the false women of our day. She was a politic lady, full of common sense and free from sentimentalism. She is therefore not only the model *wife*, but also the model *widow*, and besides the pattern *consort* of an American chief magistrate.

It was never necessary to write to her a letter such as Joseph II. wrote to his sister Marie Antoinette in 1787, upbraiding her for mixing improperly in the business of the French monarchy; for she never interfered in politics. And we have the unanimous opinion of the foreign ministers of that period, that she had a natural dignity that would have graced any court. She was just the woman for a man like Washington, whose ambition was as measured as was her desire for display. The picture of Washington's levee or drawing-room scene, of which so many copies have been sold, is a fancy sketch. Mrs. Washington held no such levees; she was never at the White House, though our presidential mansion was so named after the house where she lived as widow on Pamunky river. The house she occupied with her second husband (1788-96) in Philadelphia is still standing, and forbids any such scenes. Mrs. Washington burned the private letters of her husband after his demise. We know a wife of a President of our day, who would have offered them for sale.

Nor did she ever try to put her husband's religion in charge of her favorite clergyman; nor had she a special church, whose attendance was pressed on him. No! she was a free American woman, and she wanted no unfree spouse.

She was a lady, bred in the best Virginia society; she had no scruples about slavery; but a kinder, yet stricter ruler in household matters, never lived. Simpering sentimentalities were as foreign to her mind as immorality, and to-day negro tradition as well as white memories mention her as the best of women.

The fact, that the two model females of America were southern women, does not justify the argument (we certainly never made it), that slavery is specially favorable to the formation of good female character, nor that southern ladies are the pattern women of America. It disproves, however, that other assumption, that northern American women are, *per se*, better than those of the south. The latter had more female help, and therefore more leisure for culture, and could, if they would, be wives, mothers, sisters, daughters, and sweethearts, with all the enhancements these social conditions make desirable. A lady, that has always all the female help she needs, may enhance her existence more than one, that is always scant of domestic servants. The social effect of slavery in its relations on the females was its bright side, those on the males its darker shade. Households such as the Ladies Washington presided over, and similar ones which the writer hereof witnessed as late as 1860 and 1871, in the families of Mr. Bell in Nashville, and Mr. Tombs in Washington, Georgia, had no superiors anywhere. The only ones equally praise-



worthy were the Yankee families, which we witnessed often in Portland, Maine, where the ladies of the house did their own work. The latter sighed for help in the harder muscular work; the former yearned for a higher economy and refinement in their domestics. Both lamented that America is not raising its own hired white girls. The aversion to being a servant, so inveterate in an Indian, seems to be indigenous to America; it prevented, more than anything else, the social intermingling of the aborigines with the immigrants, and it has been much in the way of a full development of the highest capacities of women in America. It has not checked the fondness to be wives, but blunted the desire to be mothers. To have the self-service in housekeeping, which Goethe calls the best, but also self-population, so as to dispense with immigrant and negro domestics, is still one of the great wants of America.

A household doing all its work within itself, and on the highest standard of life possible, is the beau-ideal, which should be more than a poetical dream; it should be realized wherever possible. But it is worse than mockery to praise as an Arcadian destiny a high-wrought family life in which women are to be privately overworked, but to play publicly the non-working lady in fine clothes, and to gratify the eyes of the outside world. American society has got to understand, that there are extensions of home life, which, if attempted without the aid of an easily-secured, well-disciplined domestic service, have to be done either at the expense of the health of the wife, or child-bearing. The present chief of the census bureau alludes to this point in the following language: "The notorious growth of habits of life in many sections of the country, which tend strongly to reduce the rate of the national increase, will, if persisted in, make the showing of another census hardly as satisfactory as the present; . . . that children are not born to American parents as they were in the early days of the country; . . . that luxury, fashion, and the vice of *boarding* combine to limit increase of families to a degree, that in some sections even threatens the perpetuation of the native stock."

We think, that dire necessities—such as come from having a higher standard of life than is compatible with physical endurance, they being either entirely unaided or inadequately supplied by female help—are oftener the cause of the "habits of life" darkly hinted at by the census officer, than any of the improper inclinations named by him. The scarcity of female help in itself was always a drawback to the enhancements of life, which all the other environments of social existence invited. It was intensified by the comparative rareness of women generally; so

that more, than there were at hand, were wanted as wives. And when this disparity wore off, it was abnormally re-created by a seemingly insurmountable aversion of the native female to enter other families, than her own, as a domestic.

A few statistics will aid us to come to a full understanding of this very important, though delicate matter.

In 1820 there was an excess of males over females of 158,000					
" 1830	"	"	"	"	193,000
" 1840	"	"	"	"	308,000
" 1850	"	"	"	"	483,444
" 1860	"	"	"	"	427,087
" 1870	"	"	"	"	428,759

If we had reliable statistics previous to 1820 it would doubtless be apparent, that the surplus of males, to that time, was due to the long-continued overplus of males that migrated to and settled in America; and also to the greater importation of male negroes. The latter stopped in 1810 by the abolition of the slave trade; the former has augmented more and more, and has only abated since 1874. We may get some idea of the effect of immigration, on the relative number of the sexes, by the following data:—Of the male overplus of 1850 over half were foreign-born; of that of 1860 319,000 were foreigners; of that of 1870 446,000 were foreigners. There was then already among the *natives* (white and black) of the whole population a surplus of females of 17,898. In some states this native excess was specially large. In Massachusetts alone 33,000.

The surplus of colored males disappeared by 1840 already. In 1850 there was an overplus of colored females of 16,292. In 1860 it receded to 8342; but in 1870 the colored females outnumbered the colored males, 93,483.

Among the Indians the preponderance of females over males seems to be the normal condition. Out of a total of "enumerated" Indians (96,000) there is an overplus of females of over 3700 or four per cent., which, if it were the rule for our whole population, would make a surplus of females of 1,600,000 in our present population of 40,000,000.

The excess of females in the following states was, according to the Census of 1870, as follows:—

Alabama,	.	.	.	.	.	19,516
District of Columbia,	.	.	.	.	.	7,316
Georgia,	.	.	.	.	.	26,199
Louisiana,	.	.	.	.	.	2,385
Maryland,	.	.	.	.	.	10,926
North Carolina,	.	.	.	.	.	33,953
South Carolina,	.	.	.	.	.	35,828
Virginia,	.	.	.	.	.	31,097
Total southern Atlantic and Gulf						
states,	.	.	.	.	.	167,220

	Brought forward, . . .	167,220	
Mississippi, . . . . .	1,080		
Tennessee, . . . . .	11,826		
Total Western slave states, . . .	<hr/>	12,906	
Connecticut, . . . . .	6,914		
Maine, . . . . .	709		
Massachusetts, . . . . .	49,792		
New Hampshire, . . . . .	7,020		
New Jersey, . . . . .	6,752		
New York, . . . . .	56,301		
Pennsylvania, . . . . .	4,953		
Rhode Island, . . . . .	7,841		
Total Atlantic free states, . . .	<hr/>	140,283	
Total in all these states, . . .	<hr/>	320,409	

Of the total Atlantic slave states the female surplus of 67,000 is among the negroes.

As to the two south-western states there was in Mississippi (1870) an excess of colored females of 8997; but an excess of white males of 7670, of which the native whites had 3793, the foreign-born 3877. Evidently Mississippi is not a healthy place for colored males or females.

In Tennessee there is an excess of colored females of 8750, but also an excess of white females of 3109. Among the foreign-born alone is there an excess of males in this state.

The importation of negroes stopped in 1810; and in 1870, sixty years afterwards, we find a surplus of colored females of 95,000 in a total population of about 4,000,000, or about two and a quarter per cent.

During this time white immigration continued, and we find a surplus of white females of 225,000 in a population of 35,000,000, or not quite three-fourths per cent. The question naturally arises: What would the white female excess have been, if immigration had also stopped in 1810? We cannot venture an opinion, but have an idea, that the white female excess would not be as large as that of the colored folks, perhaps about one and a half per cent., or 525,000 in a population of 35,000,000.

The supply of female help, to ever-expanding households, depends of course first on the presence of such women in a given society, and secondarily, if present, on their willingness to become aides-de-camp to the wife or head woman of a family. It is well enough to talk of a society in which "every woman is a lady and her own hired girl at the same time;" for there can be no doubt, that *all* the work that is done, will then be done in manner and form most suitable to each woman. We admit, that it is much better than the other extreme: a plethora of domestics with a mistress attached, that don't work at all. But there is a medium between both, that is better than either,

and that is: where a wife does all the work she is capable of, and in which she is superior; and hires help (if she has the money) for the remainder. With this in our mind, let us see, what is the condition of American households as to the female domestic service.

The Census of 1870 shows that there are now about 850,000 female servants in the Union. This, counting seven and a half millions of households, is about one servant to nine households; or (if that way of stating should be preferred), there are about six and a half millions of households in which the beau-ideal of dispensing with servants still largely exists either from choice or necessity. The proportion is very different in the different states; as, for instance, in Maryland, 1 servant to  $4\frac{1}{2}$  families; in Virginia, 1 to 6; Michigan, 1 to  $5\frac{1}{2}$ ; Vermont and Kentucky, 1 to 7; North Carolina, 1 to 8; Ohio, 1 to 10; Indiana, 1 to 15; Arkansas, 1 to 18; Nebraska, 1 to 20; Oregon, 1 to 50.

In South Germany the average is 1 to 3.

We see at once how vast the changes are, which American society has had and will have to undergo in reference to domestic service, when we consider, that 175 years ago all colonial North America was, on this point, in the condition of Oregon, and that in a hundred years it may be in that of South Germany, and all native domestics at that, and nine-tenths white.

The foregoing statistics seem to us to prove the following conclusions: (1) That the former surplus of males was due to immigration and importation; (2) that, as our population comes under the influence of our social, climatic, and political conditions, the proportion of the two sexes rises in number as to the females and sinks as to the males; (3) that at first in all settlements the wife is the pivot of the family as to all comforts, and that she is this with but little domestic help; (4) that not the native female, but the immigrant European and the imported African women, came primarily to the assistance of the American wives and mothers; (5) that only subsequently, and then exceptionally, the native females came forward and hired out; but that the native colored as well as the white females of immediate foreign parentage did it much readier than the more confirmed native white American girls *par excellence*; (6) that the northern white female yielded service earlier and better than their southern sisters; (7) that most of the better negro girls have come to the conclusion, that it is preferable for them to be domestics in good white families, to being the wives of fellow-negroes.

It is interesting besides to note the fact, that in twenty-five states, mostly western, there are still surpluses of negro males—



total 7260, because the males were principally used for new western settlements; that opposite thereto there are in twenty-two states, chiefly eastern, surpluses of negro females—total 100,743. And with this it must be stated, that the term “worn-out negroes” is only very exceptionally true of negro women; proving, as we think, that white women have, as a general rule, been more saving of their help, than the white men of their farm hands.

Having given the general facts, and deductions therefrom, it is necessary also to state the more important exceptions, and to point out their tendencies.

Kentucky, the state that has received proportionally but little immigration, and suffered largely from emigration, had, even after the war, in 1870, still an excess of native white males of over 10,000. In 1860 it had 19,600. We incline, for this and the following reasons, to the opinion, that there is in the states, watered from the blue ridge, something favorable to population, similar to what Humboldt mentions of the territory watered from the Jura range in Europe. Kentucky was chiefly settled from Virginia and North Carolina, and in the first-named state the native white males equalled the native white females in 1850. In 1860 the native white males exceeded the native white females a little over 4000. The war and the formation of West Virginia altered the relation, but not quite to the extent of 17,000. The *new* state had a surplus of native white males of 2000. North Carolina, being the state most emigrated from, had in 1850 an excess of native white females of 7600; in 1860 not quite 4000; and, but for the war, would have shown in 1870 an excess of males.

Whether there will be in the country west of the Mississippi a mountainous area similarly favorable to male population? is a question upon which we have no reliable data. What facts we have favor such a hope for the Pacific slope, but they are too meagre to form definite conclusions.

The general rule must, however, be recalled here: that a long-continued numerical preponderance of males over females is favorable to woman's social rule. That it has not done this in Kentucky so markedly as to strike the observation of all, is due to slavery, which has interfered in many ways, principally in forcing white male emigration. But nevertheless it is marked enough for all, who will move unprejudiced and with open eyes in Kentucky society. The innate roughness of Kentuckian men has been much smoothed by the Kentuckian ladies.

These statistical data prove that we are confronted not so much by the question: what position American women shall

seek in American society? but by the question: how they shall maintain the higher position, which their predecessors have attained for them? And the reader must agree with us, that as the mothers achieved their advancement by being to society that, in which they excelled men, or perhaps better said, in being that for society, which men cannot be for it; so must the daughters maintain it by doing the same thing for the future society of the United States. They cannot rise higher by being *less*; though they may, by being more. Nor can they do it by taking the places of men; for that makes the latter either idlers or malcontents, and they become therefore either unfit for married life entirely, or if they marry, they are poor husbands. If our women would only look at themselves and their aims, and they would see, that single women in a school, a store, or an office, quit these positions instantly the moment the relation of wife opens up to them. Why do they retire from these public or semi-public positions to private relations? Is it not because their inner sense tells them that *there*, in homes, is woman's true station and sphere of usefulness! *Every impediment to the formation and embellishment of households is also an impediment to female progress*; and it makes no difference whether it is caused by women falling below the true standard, or by trying to go beyond it. In both cases it works wrong.

And right here, for fear we forget it, we must say: that, much as the disinclination, to be a servant in other families, is in the way of the formation of the best households possible in America, that still the lack of proper qualifications for being the female heads of a large number of our households is a far more grievous obstruction. How many girls, that would be good domestics, are spoiled by incompetent mistresses? And why is this so? In our opinion it arises from the entire absence of the rule, which the wiser mothers of continental Europe carry out, to wit: that their daughters shall be thoroughly educated so as to fit them for being the guides and aids of their hired girls. These daughters are taught to cook and to superintend every department of their households; by being capacitated to do everything themselves in the best way, and being, of course, able to show their employees how to do it. Some girls are hired out for this purpose, but a large part of them get this instruction by going to hotels as volunteer aids. They often pay for the tuition there; and lately they are sent largely to public institutions (let us call them: "household schools"), where the future wives as well as the future hired girls learn promiscuously, how to be the best possible female members of society. The leading ladies and social queens of America could

with profit communicate with the female consorts of the princes and nobles in Europe, to learn wisdom as to the improvement of society through special female education, and by receiving from there, women capable to impart this instruction!

There is a motto over an Italian convent, which I have never seen mentioned in America; it is—

“Optime laborare est vere orare.”

Perhaps I may be told that it is a queer inscription over a convent. It was probably put there before it became a convent. But we can't stop to argue the point, for we are just discussing American family life, to which, in far too many instances, it is equally inapplicable; because there religious formalities are to supply the much more important thing, practical housework.

We ask, however: are not all social wrongs the outflow of neglects or infractions of the quoted rule? If either men or women will not take the places, ever open—yes, ever yawning for them, and will covet places that are not and ought not to be open for them, it is sure to work evil. In our opinion every employment of an adult female by an adult male, that does not include the guarantees of the marriage relation, is a violation of that true moral order, which is necessary for safe social interhabitation. The only exception are those employments, in which a good wife and head of a household supplies the indispensable social safeguards. Human society is human nature moralized; and married women are the sages in this work. We differ therefore from Noeggerath, though he is one of the best thinkers in this age on the woman question, when he says: “Finding employment for females, by which they can maintain themselves and be independent of male support, affords the ways and means for solving the problems which modern society presents.” *We think first: that woman can never be independent of male support;* and we hold *secondly: that both can find their best independence only through their mutual interdependence.* Their best specimens have, we admit, been in America, and the time ought to come, when households, in which this is realized, are the large majority in this country. Then our women will not only all be employed, but best employed.

Recall now to mind, that there are 7,579,363 families in the United States, that not over 900,000 are well supplied with female domestics, which is one out of eight on an average. Then recollect, that European society has one out of four, and we can figure it out: that the highest comfort in family life will not be attained in this country before some way is found to

double at least the number of good female domestics. There are to-day in America one million of vacancies for female domestics. Why are our women so anxious to hunt for public places, where there are really no vacancies?

The aversion to house-work had much to justify it, as long as it was very severe drudgery, and it from early morning till late at night. But now, and every day more, the newly-invented household machinery, the additional discovered uses of natural forces and substances, and the improved household and kitchen furniture, have brought, and are bringing relief in many ways. The kitchen, the bedrooms, the washings, the milk-work, the sewing, mending, and knitting is much less formidable in amount and kind than formerly. Ready-made clothes are coming more and more in use, and the heavy lone tasks are growing both fewer and less irksome. Bread and meat are better prepared for ready use, and the time is near, when all these aids to household life will be doubled and extended.

And right here we must call the attention of the agitators of the woman question to the further fact, that all the improvements are men's handiwork. This disposes of the sophistry so often put forward, that woman's so-called inferior position originated and has been continued from a male policy inimical to women. For surely the fact, pointed out, proves that there is no such policy, and a little common sense will teach us, that there is really no inferior position. There are maltreated women and there are maltreated men, but not half as many as there are restless females as well as males, whom no conditions could satisfy, not even those chosen by themselves. What a pleasure it is to turn from them to the body of human society, that is mostly at rest, and turns a deaf ear to agitations, and lets us understand that many of the proposed changes are neither wise for women nor just for men.

The thing to be solved is not then a mere woman, but a family household question. Nor is it a new problem, but one as old as human interhabitation. The greater part belongs to conventional rule, and but little to political governing. The line where female work begins and male labor ends, can neither be the same in different periods, nor is it alike in any two households. The lack of domestics has developed in America both a new species of husband as well as of wife. Ask European males and they will call our married men "hen-pecked," and say of them: that they are too much tied to their wives' apron-strings. Ask European women and they will describe American women as a mixture of Do-nothingism,



prudery, and peevishness. If these conceptions were true it would dispose of all the talk about female hardships. But they are not true, and the amount of it all is, that scarcity of female help turned many things to male hands, that are in Europe attended to by women; and it made the marriage relation much more an intimate home-life than in Europe. As hired girls multiplied, the husbands disappeared again from the kitchens, the nurseries, and other precincts, mostly from their own good sense, but if not, by hints and demonstrations, which I need not describe. These processes are still happily going on, and it will not be long before Europeans can come over here and meet facsimiles of their households in all the varieties and grades of human existences.

We join in no useless wails at the inevitable reaction, that has set in upon us. We propose to accept the situation now, and to advise others to do so. We think, that all the complaints of restless males and females, amount, when analyzed, simply to the crotchety, that it would have been better if creation in Paradise had stopped with the original *manus homo*. Let those who think so organize an exodus for their sex respectively on some island. Those of us, who do not, will prefer to fight it out on the old line. We have passed as a good society, during the past fifty years, from a much-dispersed society to one more densely populated but hardly settled. The old folks had their troubles; the young folks theirs, and so will their successors. The early settlers solved their difficulties by reconciling their behavior with surrounding circumstances; and our age is but repeating the operation, that will go on to the end of time. Society is ever in motion, American society only a little more so. The changes are here more frequent and more rapid; hence our wiseacres are more puzzled with all their jumping at conclusions. Oregon is to-day, where Ohio was seventy-five years ago; Ohio is where the eastern states were in the early part of this century. And the Atlantic states are but our pioneer in leading the way to assimilations with European social conditions. And they are ever changing, ever varying, but also ever equating differences.

A wise obedience to necessities is ever the right path; happy the people that follow it.

The opposite course is that, which lies in the propensity to first unsettle, and then settle men and things by voting. We men owe to our good women the *amende honorable* for not telling them long ago, that we have not mended society in *that* way; but have rather played havoc with ourselves. Our mistake was, that we took, blindfolded political, path-finding for

government. What male universal suffrage came to, in America, after seventy years' voting, Disraeli, with whom we seldom agree, states with remarkable correctness: "They began with fraternity and universal charity ; and ended in bloodshed and spoliation."

Some women tell us, that had there been female as well as male suffrage, and the result would have been more humane as well as more wise. We cannot gainsay it, except by putting surmise against surmise, which is no argument. We can only pass the subject to others for further elucidation.

## CHAPTER XXVI.

## COMMUNISM AND SOCIALISM.

“One man cannot of himself fulfil the object of his life and existence ; it requires besides manifold associative co-operation.”—*Thomas of Aquin.*

WHEN Aristotle pronounced man to be a *Zoon Politicon*, he stated the truth that is the key to every social and political problem ; and to it Thomas of Aquin added the reason, as quoted above. And all that have worked for human progress have acted on these perceptions, and urged the perfection of human society through the formation of bodies-politic. We can name but a few of the greater men, for to name all would fill a book. They are Solon, Lycurgus, Moses, Confucius, Plato, Dante, Sir Thomas More, Grote, Machiavelli, Bacon, Hobbes, Locke, Harrington, Montesquieu, Fenelon, Beccaria, Adam Smith, Bentham, Franklin, Babeuf, Owen, St. Simon. Comte, Lasalle, and last, not least, our own Carey, of Philadelphia—all striving to relieve their fellow-mortals of their weakness as single beings, and to induce them to overcome it by fellowship ; none without some error, none without much more truth, and each successor adding to the general progress ; many ideal propositions, but all resting on the actualities of life, and being co-laborers in what Pope calls

“The general order since the whole began,  
Is kept in Nature, and is kept in man.”

But side by side with these progressives has been another class of men, whose premise was man's *natural* self-sufficiency. They had to accept, in spite of themselves, a minimum of existence as their standard of life, and, as to government, their model could not well be any other than a self-governing monad man. They had to reject the perfectibility of mankind by social and political organization, and their basis had to remain, what they called “natural laws,” which, whenever it was analyzed, turned out to be mere animalism. The true inner nature of man never allowed this tendency to be carried to the

nihilism which was really its principle, though Kai-Muni or Buddha, Diogenes and Pachomius came very near it.

After the dark ages had passed away, and after the Renaissance had re-enlightened human conduct, Quakerism attempted to revive human self-sufficiency in a friendlier form, and Anna Lee restored Monachism with cohabitation of the sexes. And Bastiat's still lovelier mind added "*the Harmonies Economiques*" or "*self-sufficiency of society*" under inorganic conditions. Their common error is: that they mistook the *higher* animalism of man, his crown of glory, his inextinguishable desire, to enhance his existence, for artificialness. They saw the increased dangers which sprang out of every advance in human life, and jumped at the conclusion that, not to progress is safer, than to augment human capacities. But they did not see that the same law exists throughout nature, to wit: that the more powerful the forces are which man subjects to his use, the more careful he has to be in their employment. Why argue as to political matters for an entire disuse or a minimum, when in mechanics and the employment of natural forces generally, we are ever striving for an augmentation, subject to wise control? We shall meet this question again further on.

Before proceeding we must, however, call attention to one of the causes that has given to our theme a fluctuating and indefinite character. It is, in our opinion, that it never went by a generally accepted comprehensive name. Many would, in spite of themselves, mistake this or that phase of the subject for the whole question. This has particularly been the case as to Communism and Socialism, each presenting but one aspect, and yet taken and used by the public as if they were identical. They both belong indeed to one subject, to wit: the conversion of private wealth and individual possessions into public wealth or collective possessions. To us, fully as we recognize the difficulty of coining a proper joint-name for our subject, it seems, that to call it "*commonwealthism*" will much facilitate our inquiries. It will assist us to understand at once that Communism and Socialism are but modalities of an ever-existing human necessity, which assumes in our day peculiar shapes in consequence of the special conditions of the respective human societies. The name "Commonwealth" for "Republic" has been adopted, as we think, in consequence of a change in the public mind as to the objects of government, and our word but expresses the mutations herein that distinguish our century.

All our conceptions on the subject must rest on the premise that private wealth precedes public wealth, and is its *pre-condition*. The moment more is taken than can be easily spared



by individuals, all creations of public wealth become suicidal, because they stop the principal motive of all human production—self-enjoyment—and the fountain itself dries up. The severest charge in the Declaration of Independence was: the “sending of swarms of officers to harass our people and eat out their substance.”

But even moderate conversions must produce corresponding public benefits—that is to say, all must feel better for the expenditure than they would do without it. And this advantage to society must be palpable and as near direct as possible; for public wealth nourishes the public spirit it needs, and makes it the healthier the more appreciable the good done is to those who pay for it. There should be antecedent to and concurrent with all conversion of private into public wealth, the transmutation of individual into a public will or spirit. Every individual must feel that he is at the same time a private as well as public person, and he must be both too high-toned to receive anything *gratis* from the State, as to submit to being imposed upon by unjust exactions. He must not only have his: *sic semper tyrannis*, but he must also be ever on his guard that he is not a tyrant himself.

Not commonwealthism, *per se*, then, but that which exists under false pretences, is dangerous. Individuals in society must seek their full development through public organisms that come in aid to their single faculties. A social status without them is simple barbarism. Excessive, fraudulent, or defective employment of them is, on the other hand, sickly civilization; but well-measured and adequate commonwealthism is the very soul of sound civilization. To dispute, therefore, whether there shall be public organization at all is worse than idle, it is blind-folding society. The realists and nominalists of the Middle Ages used to dispute whether things that are, are? They wasted a mass of acute thinking, but accomplished nothing. So as to the subject before us. We must accept the fact, that men need the aid of others, and that in principle there is no difference between the babe's cry for milk and an adult's wish for roads, &c. Those who object to an organic society because it is claimed to be less natural in that status than when it is disorganic, are no wiser than those who object to a grape because wine made from it may intoxicate. They would confine nature to the production of pebble-stones, just to keep it simple.

The necessity for political organization *exists!* That fact must be recognized, and then must follow the determination to organize it well and to keep it right. Neither society, nor government, nor individuals cure themselves. The spectacle of

snowflakes falling down from mountain-peaks, gaining momentum by accumulation and ending in avalanches, has its counterparts in social and political catastrophes. Always either an unpardonable neglect to govern at the right time and the right way, or a failure to correct abuses, is their cause.

We must bear in mind that forces, whatever be their nature, are serviceable to human beings only so far as they can measurably control them. And this is as true of horse-power as it is of steam and water power, and also of human authority. That, exceptionally, they break through all control does not justify their entire abandonment: on the contrary, it only inculcates greater caution in the use of them. Wisdom points to their better construction and regulation. The improvements in harness, in steam-engines, in canals and river-dams, and in political organizations are all due to the universal motive of man to increase his wealth and to do it safely.

The discussions on this topic have, paradoxically as it may seem, been complicated by the attempted simplifications. One school would confine government to the mere protection of life and property; another would restrain it to foreign relations; others would run government as a church, and the pleasure-seeking masses see in it but a social circle. Large numbers again are like the wheelwright, who ever contended that every departure from the original ox-cart made land-carriage more dangerous and less useful. The whole question turns at last on the question: whether nature is to blame for evolving beings that will seek to improve their conditions with all the might accessible to them? Nay, more; beings who will improve on improvement, and keep measuring, weighing, and thinking, so as to have comfort as well as pleasure; and who will regulate force by counterforces, and seek to understand the laws of supply and demand, and ever limit rights by duties. Do we not all agree at last to Pope's couplet—

“Then, in the scale of reasoning life ’tis plain  
There must be somewhere such a rank as man”?

America has had to see its commonwealthism through British spectacles—a circumstance that has, like the similar relation of Rome to Greece, had both its beneficial as well as injurious effects. Hence we must, in tracing our own development, first explain briefly that of Great Britain.

Its society and government were, when America was being settled by British colonists, largely under false feudal, chiefly landed, possessory rights. They had come, however, to a standstill, which meant really a retrogression, because the growing

wealth and power of the country was then already, and more and more ever since, produced in commercial and industrial establishments. The colonization of America has proceeded under various forms of longing for renewing here opportunities for wealth and power, which were, or seemed to be, closed in the old country. And he who wants to understand this land and its people must strip off the outer religious and political shells, into which their social aspirations have ever loved to incase themselves; and thus discover the great leading motives. They were and are: to let no one get ahead of them respectively in the acquisition of wealth (power). The common phrase was, "Not to make the rich richer, nor the poor poorer." All were anxious for the means, be they public or private, to enrich themselves and their commonwealth, but all were also jealous that no one should get the advantage of them. And there was and is, of course, here a sympathetic cord between those who pursue in the Old World a similar idea; though it had there principally the form of levelling-down, while here it was a levelling-up process. To give to movements here a similarity and to bring them in accord with England and Western Europe, common names were used, both for the antagonistic as well as the friendly elements: such as, Republicans *versus* Royalists, Democrats *versus* Aristocrats, free religionists *versus* priesthoods, &c., down to the people *versus* the bloated bondholder. And thus with common objects, common names, and common ways, came a common use and common abuse as well as misuse of the ideas of great thinkers, who spun on the golden thread of a common progress.

The pioneer in the new British commonwealthism, as in science generally, was Bacon. He insisted "that public policy must rest on natural justice, so that the citizens may live happily." He drew a most important though unfelicitously expressed distinction between "deep and vulgar laws," and he explained, that the first "are passed out of providence for the future, whilst the latter are made on the spur of a particular occasion." This thought of the future should be written in large letters over the chair of the presiding officer of every American legislature, for they are, one and all, ever violating its wisdom. The partisan legislation, that treats offices as public spoils, and enables our politicians to seize the public purse, is a greater danger to-day in America, than the wholesale *per capita* division of the wealth of the country, which is charged upon the communists. The one is impossible; the other is in successful operation.

Hobbes, whose conception of human nature made him dis-

trustful of a government that represented nothing but natural impulses, derives public authority from "an ethical public will formed by the chief ruler, who personifies society, and uses its common will and power for the common *defence*. *He* is to bring peace and harmony out of the perpetual war, which Hobbes contended was the natural state of mankind." We italicized the word "defence," because it indicates that Hobbes had not, like Cromwell, risen to the idea that government must *foster* private through public wealth.

It is certainly significant that the English gave their new government, after deposing Charles I., the name Commonwealth, being a word which meant, originally, simply a state of common wellbeing.

The extension in the sphere of government, which Bacon and Hobbes advocated, and Cromwell practiced, brought in England, where, as Victor Cousin says: "Everything is insular and limited," a reaction, and it came through Locke's advocacy of written Constitutions. The idea was particularly acceptable to Americans, because they loved, not only from ancestral, but from their interests as colonists, close limits to the powers of all government. Hence Locke was invited to frame a Constitution for North Carolina, and did it; but it was not a success. The desire continued nevertheless, and became a mania during the American Revolution. Maryland had adopted a Constitution in 1650 already, but the year 1776 saw a half-dozen Constitutions spring up, besides the labors of Congress for the Articles of Confederation. The Constitution of North Carolina, adopted after Locke's, says, Article XLIV.: "The Declaration of Rights is hereby declared to be part of the Constitution of this state, and ought never to be violated on any pretence whatever." Article XLIII. provides: "The future legislature of this state shall regulate entails, so as to prevent perpetuities." The Constitution of Maryland also confirmed the Declaration of Rights, but contains (Article XI.) a remarkable restraint on the legislative power. It seeks to protect the Senate against the arbitrary acts of the lower house in "annexing conditions to money bills." "*The Senate was to be free in passing laws for the public good.*" We call this remarkable, because it shows that, what has since been forgotten, was then well understood—to wit: that an American Senate is not a British House of Lords, and that *both* legislative chambers must have free action in the New World.

If the reader will now turn to the preamble of the Constitution of the United States, he will find not only the social and political popular origin of government recognized and the theocratic left out, but, besides Bacon's and Hobbes' enlargements of the scope and object of government, also the acknowledgment



that the *general welfare* is to be promoted, and the blessings of liberty secured to the then society as well as to posterity. He will find, moreover, in Art. I., sect. 8, the attempt to create a government of *enumerated* powers, and in the amendments, adopted soon after 1787, the then so rife spirit of limiting government by a bill of rights.

The clauses in the preamble recognizing the common defence and the promotion of the general welfare as the objects of government are again specially repeated in sect. 8 as the purpose for which taxes, duties, imports, and excises are to be levied and collected. Thus the preamble of our federal Constitution is a combination of Bacon's, Hobbes', and Locke's teachings, combined with those of Hume, who wanted public opinion to have more force in government. Bentham's purely utilitarian views had not then penetrated the American public mind much, though it influenced it largely in the nineteenth century, and produced extensions in the sphere of government in America. The idea of using the enlarging and growing wants of individuals so as to swell and amplify the functions of government through universal suffrage and universal qualification for office, was then still slumbering the sleep it had been put into, after Rome had fallen, through abandonment of government to popular passions.

We have thus traced the major British sources of the commonwealthism that entered into the public reason of the leaders in the American Revolution—Franklin, Jefferson, Adams, &c. Washington's mind was more antique, in the best sense of the word. Sir Matthew Hale's writings and the higher tone of Masonry had anchored his mind in the classic British ideas of government. He spoke in his inaugural address of the United States as an assemblage of communities and interests, and of "private morality as being the foundation of the national policy." He wanted "free government to have the attributes which win the affections of the citizens and command the respect of the world," and saw "in the economy and course of nature an indissoluble union between virtue and happiness, between duty and advantage,—between the genuine maxims of an honest and magnanimous policy and the solid reward of public prosperity and happiness." He seems not to have been disposed to support a system of government that made the fostering of individual prosperity its special study and care.

But we must not leave the reader under the impression that none but English sources made the American public mind communistic. No! All the causes that culminated in the French Revolution were, though filtered through British channels, active in America. Scotland had always a free-er intercourse with the

general literary mind of Europe, and through *it* America was continually impregnated with the more advanced political teachings much more, than through England direct.

In this way, and of course through immediate studies by Americans, the writings of Montesquieu, especially his example in reasoning out laws upon concrete issues by the light of comparative jurisprudence, had a decided effect. Americans saw, that besides rightfulness there must be special adaptation in all enactments. So too had Fenelon's maxim, that "legislators must study the laws of the moral world as the standard and groundwork of their own." This was Washington's favorite idea. Jefferson was, besides, much imbued with Beccaria's reform in penal legislation.

Benjamin Franklin is the only American of the revolutionary era, who has a European reputation as an original thinker on politico-economic subjects. His head and heart were open to a large use of public wealth and credit in aid of private enterprize. He was as largely utilitarian as Bentham, but had much more shrewdness in fathoming the real upshot of things. He was not afraid to inaugurate a public measure for any and all useful purposes. His plans of government prove, that with him "capacity to form and to execute a policy" was the main consideration. He may be said to have been a political Archimedes, for he regarded private wealth as the *fulcrum*, and organization and concentration of means as the *lever* with which to lift society higher and higher. He would have subscribed without hesitancy the definition of the fundamental principles of social science, adopted since by Carey, of Philadelphia, to wit: "The science of laws, which govern man in his efforts to secure for himself the highest individuality and the greatest power of association with his fellow-men." The two respectively occupy to the men of their time, who have had to deal with such questions as we are discussing, about the same relation; that is, they might coincide in their general views, but not in their special ways. Voltaire and Rousseau were passing from the stage of life when Franklin came to France, but *Necker* and *Turgot* were in active public life and trying to solve the great problems of lifting a state out of severe financial difficulties, created by previous false governments. Franklin had not the brazen imprudence of *Calonne*, who could say to the Queen: "If what your Majesty asks is possible, the thing is done; if it is impossible, it shall be done;" but he had unlimited confidence in the capacity of a state to do anything at all reasonable, provided it had financiers in its employ who added efficient administration to fertile brains.

During the Revolution and for several years afterwards the commonwealthism of the United States was patriotic, but neither efficient in administration nor just in apportioning the public burdens. There were good financiers, such as Morris (Franklin was away), but they were simply worn out in trying to lift the public finances out of the quagmire created by public men who wore the mask of liberty, but catered much to popular proclivities. These wanted much good from government, provided the expenses for it were shifted on somebody's shoulders, not their own, even if that somebody were their children. It was playing the game of "Black Peter" in politics and finance. The continental paper dollar had been thus used until it sunk to nothing. It had served to float means from one species of wealth and one set of persons to others, and the two hundred millions of dollars, that were issued for public expenses, carried with them in their fluctuations a threefold amount of shifting of private outlays and speculations. We wish we could say that Alexander Hamilton tried to break sincerely and squarely with this system, but we cannot. His bank, and his funding and revenue measures, were certainly an improvement on the old paper-money cheating; they brought order out of chaos, and his commonwealthism embodied a much higher spirit than existed before; but they contained still much of that Scotch hide-and-go-seekism which was the fatal defect of John Law's (his countryman really) plans. It lost him eventually James Madison's support, who had co-operated with him in his endeavors to improve the finances in 1782-3-4, indeed also in the establishment of the new Constitution, and in prohibiting therein the issue of paper money by the States. That loss was fatal to Hamilton.

Franklin did not get an opportunity to imprint on the new Union his well-ordered and wisely-progressive commonwealthism, and it left a void in American public affairs. So the task of setting Hamilton's deficiencies to rights fell upon Jefferson, after John Adams had made himself unpopular by his efforts to give the United States Government an efficacious public administration. Jefferson took Albert Gallatin into his Cabinet, who (a relative of Necker) understood not only the advanced ideas of the French-Swiss political economists, but possessed also fine organizatory talents, and was besides a good disciplinarian. But Jefferson, instead of giving full play to his faculties as Secretary of the Treasury, overloaded him with other business, and hampered him besides in his regular functions, by his theory of a narrowly circumscribed federal government. Jefferson never realized that he was initiating a policy that

would end in a public administration, to which absolutely nothing dare to be trusted; which was the very opposite of Franklin's and Gallatin's beau-ideal, to wit: "a public administration to which you could confide everything." Jefferson shrunk from a comprehensive land-tax and road policy, and landed the United States in a commonwealthism that resembles a dead sea, and we have been navigating in it ever since. Madison, Monroe, and Jackson kept in it, believing all the time that they were avoiding sunken rocks, when they were really but confirming a vicious public service. All these great men, and J. Q. Adams as well, had an inner consciousness that something that ought to be done was being neglected, but their strict construction in politics barred them from taking a full view of the subject.

*Federal* commonwealthism being thus measurably still-born, the elder brother, State-commonwealthism, had to be revived, and it was remarkable how quickly it fell back into the practices of its colonial predecessors. State stocks and bonds in lieu of paper money, and just as little fair taxation and assessment as possible, were again the characteristics. Clinton was its leading mind, and he had numerous disciples and admirers in all the states. The system broke down from lack of a good financial policy and an overdose of popular fickleness.

A sort of mixed semi-municipal and semi-corporation system now took its place. But the public mind had taken a dead set against governments generally, and allowed the corporations to become the sole mediums for the little commonwealthism, that was kept alive from downright necessity. Merchant princes, canal rings, and railroad kings ruled the States. And when between 1861 and 1871 the United States brought out the Pacific Railroad projects, they quietly stepped aboard and took the master-positions.

The whole course shows the fallacy of the hope to escape corruption and despotism by having a minimum of government, and *it* neglected and unwatched. Rome had an effective public improvement system connected with its army organizations, and very little corruption in this part of its public administration—while we had in all our public works (though the federal, state, county and city authorities had been eliminated) the most astounding robberies of public wealth. Private corporations became the lodging-places of our public frailties, because we had not rooted them out.<sup>1</sup>

<sup>1</sup> We must, even at the risk of offending, state, that the sudden springing up of alarms at Communism and Socialism and its aberrations here, look to us very much like the surprise of the farmer, who after riding on his ass all day was still worried, that he had not found him.



Out of this pseudo-commonwealthism has sprung the Communism and Socialism which alarmed us in 1877 for its incendiaryism and bloodthirstiness at Pittsburg and elsewhere, and it behoves us to find wherein it is false? The wrong consists, in our opinion, in making our public improvements a game of chance, intrigue, and gambling, when they should be works of carefully-framed public policy—one that rests on close calculations on the sums which the public can spare annually. As things are, the question never is: how much *ought* to be expended? It is simply: how much can we diddle out of the people by stock and bond speculations? Hence men like Gould are the master-spirits and leaders in every crisis. The country is hardly out of one crisis before we are in another. They are to these men what water is to fish.

Those who rose against the railroad rings felt instinctively the false commonwealthism that lies in capitalized semi-public and semi-private railroad corporations. They would object equally strong to a capitalized post-office, or court, or school. And we may as well understand that scientific thinkers are with these communistic socialists, so far as they object to capitalizing anything that is really a public concern. They contend that whatever is an actual common object, and involves a conversion of private into public wealth, should be ordered through legislatures and carried out under well-organized public administrations for common advantage.

Let us now look a little closer at the two phases of commonwealthism which alarm us (Communism and Socialism). In Europe it is openly avowed: that society is to be thoroughly reconstructed, that all things necessary to production, such as real estate, workshops, mechanics' tools, capital, &c., shall be *collective* possessions under common (public) rule, "that there shall be no money, but labor tokens; and they alone to be the measure of each person's share in the common production of wealth, their value to be fixed by a common authority, the measurement to be by the *time* for which labor is performed. Production to include transportation, &c. No private property; all privacy reduced to the lowest possible minimum. No land laws, no tenants, no interest-bearing capital, no wages in our sense, no competition in pursuit of business, no sales on execution, no speculative investments." This is the European programme, and it is claimed that this reconstruction will stop all inducements to bribe legislative bodies, all swindling stock and bond gambling, all injustice from capital over labor. We know from our own feelings, as we wrote these items down, that it is hard to remain calm under such propositions. They look like the legalization

of theft, burglary, indeed all the crimes at once. And yet, dear reader, calm, respectful consideration, and wise conclusions are our duty in the premises. And you will see the wisdom of this, if you will only look at the propositions again. Do they not lose their monstrosity as we examine them? Our opposition to them may be stronger thereby, but also better, for we will act and think from a definite understanding.

The same, only more so, will be the result, if we will place now before us the American status of the question. Our socialists and communists are still bound up in greenbacks; they oppose also penitentiary labor, ask for eight-hour laws, and advocate the assumption of the railroads by the United States. Greenbacks are the signal object, the rest are by-coaches. The last named is the railroad change, as we have seen, the *practical* issue. It is easily seen that while the European agitations have a persistent, clearly perceived aim at a better (?) future, those of America are ephemeral, partial, and piecemeal. In fact, we may say they are calculated for the next election. Another difference is in the leaderships: in Europe the leaders, Marx for instance, are in front; they direct, frame platforms, and edit the public explanations, and this is conceded to them by the body of their adherents from a conscious confidence in their education, talents, and fidelity. Here this class of leaders, for instance Carey of Philadelphia, Britton Hill of St. Louis, &c., are in the rear, and a very different class of men occupy the front, whom we won't name, since they advertise themselves. And these differences have correspondingly different effects upon the respective publics. Those of Europe are in the midst of a wide-awake inquiry, and are being rapidly informed: whilst ours are over-alarmed one day, over-quiescent the next. The placid, self-poised public tranquillity, which is the result of a consciousness that society and its government are rightly disposed and in the hands of good public men, is sadly missing, because it cannot exist under our partisan rule.

"Domestic tranquillity" is, as stated in the preamble, one of the objects of our federal Constitution. How is it to be attained? Surely a tranquil public mind is the prerequisite! But tranquillity does not mean a sleepy public mind, nor one nervously agitated. "Eternal vigilance is the price of liberty!" Vigilance as to what? Evidently as to the constantly-going-on changes in society; and that again means: preparedness to ward off, to watch intelligently, and to settle wisely each public question as it arises. Dugald Stewart, the Scotch philosopher, advised us on the initial point in all such matters when he said: "Every desideratum is an imperfect discovery; to which may

he added, that every new problem which is started, and still more every attempt, however abortive, towards its solution, strikes a new path, which sooner or later leads to the truth. If the problem is solvable, solution will in due time be obtained. If unsolvable, it will soon be abandoned as hopeless by general consent."

\*To us it seems that we must look at Socialism and Communism (as they are presented by the respective master-minds) in *that* light. They are "desiderata" of portions of society presented for our consideration; doubtless they also rest on "imperfect discoveries," but are still "discoveries" and finger-boards to "new paths that lead to truth." They are "problems for our solution," but that solution must be by "common consent," not by partisan force, nor by political intrigue and bargain and sale.

Commonwealthism, then, called into existence by common consent, common contribution, common wisdom, and common capacities—that is the basis, the measure, and the method of a true public spirit. It is not a new definition, but as old as social interhabitation between human beings. Plainly this means, but in other words, that society must be, if it is to be healthy, organic, ethical—in short, that it must govern. Govern what? No one else but itself! How? By listening to, or reading out of itself, its wants, encouraging their expression, but subjecting them to the examination and decision of its *collective* will. This collective will must be more than a gathering up and counting of tickets. *That* gives only an *average* public will, not a collective one. It lacks Bacon's requisite—providence for the future; it is in his sharp way of stating it: *vulgar* not *deep* law."

We say then: Bring all propositions for common action, no matter how great the change they propose, before the forum of public opinion in every city in the Union; do it with Communism and Socialism now! Ask that their desiderata shall be stated to you by their *master-minds* and not their demagogues. Give them a hearing in Congress and in all public bodies where opinions and agitations may be sifted. Our word for it, they will drop their Bowie knives, revolvers, fire-brands, and listen to you for the correction of their inchoate political aspirations. They will thank you for your *solutions*, whilst they will fight you for your *blows*.

Why do Grant and men of mere *force*, when they bring up these subjects, talk of killing the obnoxious socialistic democrats? And why do great political economists like Boehmert and Schaeffle propose to teach them? Because each respectively

acts according to his vocation. Both are needed and useful if employed at the right time and in the right way. Both are, however, useless, yea mischievous, if placed in power at the wrong time. The men of iron always follow remiss statesmen; the former are the *ultima ratio*, the latter the *prima ratio*; just as generals have to cut the Gordian knots of entangling diplomats. Society, when it fails to have good instructors, or, having them, will not learn from them, falls quickly into conditions when all its normal authorities seem useless, when indeed they are in the way, and when the sword leaps forth to solve neglected problems. But it is also true that the continuance of force, and of men that look to it as the remedy in all cases, after they have performed the little they can do, soon necessitates the return to normal conditions and the recall of the men who teach, persuade, and build up. Occasionally both faculties are united in the same personages, as for instance in Cyrus, Charlemagne, Alfred, and Frederick the Great and Washington. And they evince their double capacities by voluntarily dropping the sword and taking up the work of peace. Such men mankind stare at as miracles, and if one of them is prevented, either by assassination or ostracism, from performing his functions, the masses mourn for them for ever, for they know that they were deprived of their best men. Cæsar's assassination was an instance hereof.

Let us apply this to the case in hand. The normal—the only really good—solution comes through statesmen with whom a well-instructed popular mind co-operates; the abnormal (mostly incomplete) solution comes through forces that need “blind obedience,” as Moltke said so honestly and pointedly.

Where are we now in the United States as to commonwealthism? Is our status to Communism and Socialism where the slavery question was in 1860? Or is there still time to solve the problem in normal ways? We feel certain that the latter is still the case. Let us inaugurate then at once all those processes that will bring out the truth and enable us to dispense (in the domestic government of our society) with the hard-featured men whose ways are necessarily bloody. But do not let us forget, that it is our neglect that brings them into public life. If we do our duty they will not be needed. Obey the laws of health and you need no doctors.

What then, we may be asked, constitutes the main objection to so-called “Communism and Socialism”? Is it that they would have an annual *per capita* division of property, or that they would introduce a community of wives, or that they propose unheard-of ways and means in commonwealthism? No! and



no again must be the answer to the last three questions, for no portion of our society is disposed to share wealth indiscriminately; none is willing to have wives in common, and few are less inclined to invade other person's connubial rights, prone to try novelties, than the working-men who make up the body of our "communists and socialists." They want, as they say, a just distribution of wealth, a superior family life, and ask no more than, that the organisms that have proved serviceable in the post-office, the "Regie" in France and Austria, in the Catholic Church, in public works, in military organizations, &c., shall be extended to all production and its apportionments. The mode of measurement for services, that is in salaries, in fees, and in all public ascertainties of the values of work and materials when applied to public uses, is to be the general rule. In short, it is not an exuberance of suggestiveness, but rather a poverty of original thinking and acting that may be charged upon them; and this brings us to the most serious objection to the cause, to wit: that it renders future developments, in accordance with coming radical changes in production as well as social organization, almost, if not entirely impossible. This may be deemed a rather stretched accusation against men who glory in being the men of the future. But the reader need only reflect on the reasons why Plato's Republic, Dante's Imperialism, More's Utopia, Harrington's Oceana, down to Fourier's Phalansteries, fell dead-born? It was not because these "masterpieces" were not up to the most advanced conceptions that could be drawn from history and deep reflection on the conditions of their own time; it was because they had not, could not have, before them the lessons of unwritten history, those of the social embryos in the womb of time; the still *unborn* "necessary relations of persons and things." In the words of a modern author, Putnitz, "they have not yet been weighed in the golden scale of time." And, with a view to illustrate this point, we venture to mention that within our own memory the best organized shops, or the most perfect commercial establishments, or wisest public organisms had to undergo thorough changes. And this proves how inadequate all plans must be which take into account only existing relations, even if those who do it are the most advanced thinkers. Individual capacities change continually. The fleets of Cunard, Inman, &c., as well as Vanderbilt's railroads, the *Herald* newspaper, or Stewart's stores were as inconceivable fifty years ago, as those very individualities and their corporations will be, which will oppress our posterity though they seemed to elevate us.

And this explains to us a thing that has puzzled some very

fair minds, and even led them to harsh accusations, to wit: the want of full avowals and definite plans and measures in the programme of Marx, and the bigger minds among the communists and socialists. Is their hesitancy not evidence of their superiority over others, that are acting or have had to act their part?

The poet says: "Quickly ready are small minds with their plans." Whether Marx and his consorts withhold the details of their propositions from a conscious sense of their inability to produce *that* now, which is to be the ultimate outcome when common sense has acted, interacted, and reacted on their "Communism and Socialism," we do not pretend to know. It is enough for us to understand that it would be wrong and foolish in them to present them—not but what there might be individuals in our day, as there were of old, who could frame institutions for ages ahead. But surely they would have to be as much greater than their contemporaries as the modern world is faster, wider, and wiser than that of antiquity. Still, as the laws of human, particularly social life, become better known, and forecast grows more and more into a practical faculty, the time may, nay, will come, when there will be not only individuals that can draw good plans for the future, but there will be with them also a society capable to criticize them fairly, and to correct them where necessary. That will be when there will be both more private as well as more general public wealth.

And, in conclusion, we must find that both American and European "Communism and Socialism" have a tendency to make the State everything and individuality next to nothing. And we marvel how men who now complain, with some justice, of the social and political ostracism of the ruling elements of society as now organized, can advocate a status where all will be collective national wealth. Communistic bodies are always less tolerant of superior or inferior individualities than single persons. And here it is proposed to have everything done in common, and nearly nothing in private. All persons will then keep asking, what Webster once asked when all the dominant parties were closed to him, "Where am I to go?" From the Russian villages, where they own all the land in common, those escape and turn wanderers who find their homes too narrow for their individuality; but where will men go after Communism and Socialism shall be international? To us it seems that all common power that does not also enfranchise and elevate individual self-capacity, is dangerous to society. And *this* danger we apprehend from modern "Communism and Socialism." In it individualism will be very hard to maintain! And this is the reason why we regard a "com-

monwealthism," in which there is no private wealth, fully as objectionable as an individual-wealthism in which there is no common wealth. It is the common interest of all to have both in due measure and degree. That was the way in the past; it will and should be so in the future.

America has had more good as well as bad commonwealthism than Europe, and not less! But the good has been more marred by deficient public administration in the New World than in the Old. Perceiving the latter fact was Washington's great sorrow, through the Revolution, and he carried it to his grave. It exists yet! And why? Because we are still an emigrating people, with many public wants, which we are in haste to have fulfilled. We gather experience fast, as history, but slowly, very slowly, as guides to our conduct.

Good institutions are with us still easily abolished, whilst good ones are very difficult to establish. Our public desires do yet outstrip our public virtues. And hasty action and hasty standstills, with plenty of regrets for our leisure, are still our characteristics. And notwithstanding all this, it is true, and it must be stated, that this people has had great moments, one of which was, when the nation, hardly born, declared itself subject to the Law of nations; when it established the Constitution of 1787, and when, two-thirds of a century afterward, New York set in motion its constitutional reforms. We are on the eve of another great step, civil service reform. Would that we could say that it will be untainted by partisan misconduct. May good commonwealthism multiply, and the time soon come when the false partisan brood shall have to hide their heads and slink away before the gaze of a wise and virtuous public mind.

## CHAPTER XXVII.

*THE SITUATION, 1880.*

"Party is the madness of the many for the benefit of the few."—*Pope.*

THE first inquiries, as to the situation, in a book on American politics, are, of course: Who rules in the United States? What kind of government have they? These questions seem idle; for do not *here* the people rule? Is not the government democratic? So would certainly every one answer on the spur of the moment; but, on reflection, how then? The reply will perhaps be more definite, and we shall be told, that the United States are a federal democracy, in which the general government is supreme in all the functions granted to it, or clearly implied by the Constitution. Well, but how about the remainder? Then the answer would depend very much on the person that might have to answer it; for no two men agree on this point, not even if they are members of the same party.

There was a time when you could hardly go amiss in making the inquiry of any citizen, for they would promptly either affirm or deny the respective sovereignty in accordance with the respective party tenets. But now it is party blindness alone, that will not let men see, the blindness in American politics.

This result of these inquiries does not therefore satisfy us. Suppose, then, we reverse our queries and ask: Who does *not* govern in this country? What kind of rule does *not* exist? And now we find readily, that we have no hereditary king, no political aristocracy, no privileged oligarchy, no state church, no cut-and-dried democracy, no republic in the classic sense, no theocracy, no states-union, no union-state. But if we may accept all these negatives, we will still want to know: What positive institutions has this land and its people? And to this question, as it implies that we have no positive politics, we have a right to answer by asking: Is a thing no government, because none of the usual names apply to it? Are not our institutions, standing as we are before a long history of



public authorities, necessary eclectic? So they are; but still comes the further inquiry: Do you mean to claim, that you have the best down in positive law? And if you answer, Ay! then we ask still more searchingly: Are you carrying out your eclecticism in your political practice? Sharp critics will answer for you, and deny all your premises and assert: You have not even a nondescript government.

We might ourselves adopt this conclusion, if our five senses did not contradict it; for have we not elections, executives, administrations, a Congress, legislatures, judiciaries, armies, penitentiaries, jails, taxes, public improvements, and the various municipalities, and, to put the seal on it, public debts with all? Do not our stump-speakers and our public press point out to us a bit of incipient monarchy here, and of aristocracy or plutocracy there? Are we not warned of the beginnings of hierarchies and of strongly-developed centralizations in every fibre of our institutions? Are we not pointed to tyrannic designs in the various public, semi-public, and half or wholly secret corporations, such as banks, railroads, orders, and associations? We have evidently, then, not only much government, but what's more, much cry for reform! Are we, then, you ask, not justified in saying as we did: Our governments are eclectic. Do they not, for that reason, fit into the old nomenclature? Can we not honestly say, that our legitimacy consists in being under processes of improving on all the old orthodox rulings; and that freedom is our all-absorbing object? Improving?! Freedom?! Words easily spoken, but have they a definite meaning? Is not the crucial question still to be asked and to be answered: Do our public organisms counteract the ever-impending tendency of social masteries fixing themselves into political potentialities? For only where that is done, exist governments that are governments in the true sense, to wit: that of being the perennial fountains of liberty, social harmonizations, and peace, with prosperity and lawful order.

It may now be said: We do attend to all this in the right way; for we leave to all interests their freedom to contest each other's attempts at undue advantages. That there is a good deal of private and public vigilance on the subject, is undeniable. But its effects in good laws and correct and efficient public administration are not so clear. The fact, that public opinion, the preparatory organ of politics, is here continually spasmodic and vaporous; and that it upsets public authority, as often as it inaugurates it, would seem to indicate, that the public mind is undecided as to the effectuality of its vigilance. Are we not then justified? in saying: the present status of the

universally claimed regulator of American politics—public opinion—is one of dissatisfaction with itself? And if that is admitted, as it must be, then we may venture a step further, and say, that the reason of this dissatisfaction is the awakening consciousness of the American people, that it lacks the initials as well as the essence of all good governmental processes for ripening the public will. Each voter mistakes *his* opinion for public opinion, and tries to pass it for genuine authority. Newspapers, stump-speakers, reporters of real or fictitious interviews, are ever busy in manufacturing it. Each day has its own litter, each new breed being a contradiction of the one previously expressed. Town meetings, conventions, and congresses are used to catch the buzzing butterfly of American politics; but as each of those attending them goes home, they know, that the real thing is at last not down on paper, and that our politics are ever but a new round of delusions. Obviously, then, a government governed by public opinion, or a public opinion manufactured by government, are synonyms to no government at all. It means incessant disputations; it makes haphazard action the rule; and authoritative public policy the exception.

The question arises now very naturally: Have we not then, perhaps semi-consciously, arrived at that beau-ideal of philosophers, a self-governing society, that knows and does the right by a sort of rightful spontaneity; so that it may treat political institutions and functionaries as so many supernumeraries? It would seem as if we might affirm this proposition; for have we not religion without a church, politics without statesmen, public peace without a police? Have we not chief magistrates that have not and dare not have a personal policy? That we have such conditions, as the fancies of certain brains, is true, for our press is full of them; but, when they are uttered, wise men smile at each other, for they know them to be supposititious, not real. Our actual public life is still but a protracted quarrel about the distribution of power and its emoluments, we have incessant partisan struggles; but are at sea without compass or rudder as to our laws, our morals and our manners, and have not, for that reason, that "conjunction of individual wills," that forms, as Montesquieu says, "the State." Our Constitutions, statutes, adjudications, and ordinances have nominal, but no real authority; and the liberty we most prize, is the right to have unhindered and unregulated partisan as well as social strife. Science may state its truths, religion may plead for morals, politics may suggest policies, but it is all subject to "the next election," in which the balderdash, uttered during the preparatory campaign, is to be formed into a public will.

Grant it! we hear some one say, "that we have merely a party government;" but is it not an improvement on its British model? Softly, dear reader! We have more partisanism, but do you call that an improvement? Is it not a less "regular" government and therefore less good? The English parties have recognized leaders; and we had such under Hamilton, Jefferson, Jackson, Webster, and Clay. But has either the present republican or democratic party an acknowledged leader? And as it has none: can it be called a government? Nay more, have we any well-understood processes by which we arrive at comprehensions of the relation of causes to men and men to causes? Are we not helpless before every great public question? Everybody knows that we are. And the "why?" is near at hand. It is: because wisdom, virtue, and intelligence are either directly overborne by the ill-informed, immoral, and brutal forces that propel our society and its politics; or they are compromised by actions, that are as much a defeat as a victory for that which is right. The spoils of office furnish the motives, but they are fully as much a disturbing as a cohesive element in our parties. And the advantage is ever on the side of the lower characters. The idea is, that they are a check on each other, but the fact is, that they coalesce often in the only object they have—the division of the spoils. When in Rome the triumvirates were formed, it was the coalition of the three greatest citizens of the Republic, but our combinations are the secret intrigues and agreements between the meaner politicians of both parties. We are as to our political condition under a similar hallucination, as mankind is as to its place on earth. They think themselves walking about on the top of our globe, when they are really groping about on the bottom of an air-sea. So we think we are on the summit of politics, when we are merely on the ground-floor of nasty partisanisms.

The Turks have a proverb: "Round a broken-down carriage stand many counsellors." It fits our case; for we *are* standing before a broken-down, or at least a breaking-down government. But we must not mistake the wreck for a failure of the particular kind of government down in our Constitutions. On the contrary, the break-down must be charged to the several abandonments of the true synthetic rule for America, that of selecting the best out of historic governments. They abandoned it without putting in its stead anything that answered that great necessity of every human society. Our processes are all decompositions; none, or very few, and they only under stress of circumstances, are synthetic. We were all striving for power over others (through wealth), and neglected the much greater, more lasting, and

purely beneficial power; that which proves its right, to be an example and a rule for others, by self-control; and hence we have not solved a single political or social question. Our elections have from the same cause filled the public service with men, whom the voters themselves wanted or want to be removed as quickly as they were chosen. And in this way the public wealth, that should have been a source of accomplishing those public wants, which are too large for individuals, has, nine-tenths of it, become a merely chance-distributary process, by which the better citizens are robbed by taxation for the benefit of bad partisans. Let those who deny this statement, tell us of a single act, or fact, since 1824, which came because the people willed it! Even Jackson's administration, which was the work of popular impulse more than any since, was on every question different from the previous public opinion. And not a single presidential or other election since was the product of popular will. And the election, pending as we write, is least of all due to any popular forecast. There are so-called "booms" upon booms; but they are really nothing but the dealings out of cards stocked by jugglers in the press, which have but one object, viz: to substitute bold guesses for prophecy.

And now mark the great fact in American politics, that the people of the United States have never themselves felt safe under their institutions. They always had an instinctive dread of the quicksands on which they were hurrying along; but their steady rise in wealth and population always again quieted their fears. They would say to themselves: Can our government be bad and we prosper? Had they but looked at the main sources of their wealth, and at the human beings who aided them so materially in their productions, and they would have seen, that most of the first were due to natural resources, existing long before an immigrant from Europe set his foot on these shores; and that the second was far more caused by imported and immigrated labor than their own industry. They would not admit this, hence they failed to see that America could be misgoverned for some time without visible injury. And as their statisticians catered to these illusions by tables that were mere additions of numbers, like their ballot-box government itself, each census was but an intensification of the previous self-overestimation. And thus the nation went on killing Indians under the plea of extending civilization; they wasted wealth and population in various ways, and yet grew more populous and wealthy. It could impoverish its soil and still augment their products, it could misgovern itself, all with impunity, because it had primitive soils to migrate to, and confluent immigration



to act as second advent agriculturists, both acting like the fabled stream at Lethe, in covering their bad economy and allowing it to be forgotten.

Under these hallucinations the governments have been and are used for public frolic, rather than as a matter of real concern. The public eye was bandaged by popular infallibility, and it became a sort of game of blindman's-buff, in which all might join through the press and on the stump, and call the game Reform. The end is a tragi-comic performance, consisting of tickets being cast into ballot-boxes, which when counted were called: The verdict of the people. This *verum dictum* is, however, never accepted as true, for it can't satisfy us. It is, on the contrary, persistently tried to be reversed, and a few hundred who unite, in one, may soon after change and give a majority the other way. The questions submitted are always imaginary and unreal, and the whole thing ends in a dumb show of hands. It is the old *folkgemote* in paper form. The participants are all blindfolded and then fire at each other. By this process, those who administer this government are to find its policy, but there being none there, they treat it as the old oracles did the great "Unknown:" they wait events, and sometimes venturing to hit or miss, they anticipate them; but they do it at that fearful peril, causeless popular condemnation. Being smart, they shield themselves ahead. Where they feel perfectly sure of being applauded, they act without asking popular advice, and then claim credit for their acts; but where they are in doubt, they claim to have merely done the will of the people, and if it turns out bad, it was the fault of the latter. The queerest procedures are those measures by which the people are bribed with their own money, because they are made to believe, that appropriating public money to improvements of special local benefit is not a robbery of some other constituency. One-third of the public expenditures are such self-briberies. We call them: "log rollings."

That (politically) the ship of state was sinking, there were too many evidences, to deny it; but they were outshone by glaring manifestations of the country's growing population, wealth, and power. The flatterers of the people have the latter ever on their lips, and if wrongs obtrude on popular vision that are too strong for denial, they charge them on comparatively innocent causes, such as violations of the Sabbath, the use of intoxicating liquors, or religious unbelief; to anything, only not the true cause, to wit: an ill-formed public will. And they mix their charges with fulsome flatteries of the people and the country's institutions, and persuade them to try this or that change of

regime, but leaving all the time the ministers of all the wrong—the parties—in power. The voters keep watching their tools in office, the executive, legislative and judicial officers; but never themselves—the factors of all the mischief. And when in 1876 and 1877 the inevitable ultimate result of popular infatuation—frauds at elections—came, they were surprised, and looked at the counting-in and counting-out processes, as if they worked wrong only temporarily and incidentally. They were actually glad, and thanked the politicians that they had *only cheated*, and that the final product of public folly—bloodshed and civil war—had been averted.

How could it be otherwise? The candidates for office, the editors and the orators, had lost all reverence for this *Deus ex machina*—the ballot-box. They knew it contained tickets voted from all kinds of wrong motives or blind zeal; and that, of course, it never embodied a public will, which they could really respect. They considered themselves moving in a treadmill, in which, carrying elections by fair or foul means was the object. The proverb says: “No one can be a hero to his valet!” It ought to have a new version, viz: No people can be a divinity to men, whose daily vocation it is to wheedle and cajole them.

The people thus only disgrace themselves, when they volunteer to be the cat’s-paws of their demagogues; and they have rendered themselves ridiculous by the partisan methods they improvised to retrieve themselves. Each party thought, that it could rise by pulling the other down; but every such effort was but an accelerated sinking of the people into meaner politics. And to-day we have arrived at the lowest stage of degradation, that of a superciliously proud people prostrate before men, whom their own breath has made great, and parading before them and with them in the streets of the larger cities. These popular idols are coquetting at the same time with the respective party leaders; and the scene of Cæsar’s thrice-repeated rejection of the crown, and each time weaker, is being carried on *ad nauseam* a hundred times, and at each town with lower adulations. The whole thing is a low game, in which the people try in vain to play “nation,” and the candidate “dignity,”—all feeling, yet but few understanding and recognizing, the great necessity there is in every commonwealth for the guidance of its affairs by men of genius and culture. And because it is only an unconscious feeling and not an intelligent cognizance, the voters and the aspirants are continually mistaking each other; the people ever erring in bestowing their favors, the popular heroes ever confounding popular love of display for personal

admiration. The huzzas of a giddy multitude are accepted as proofs of popular judgment, and men, hardly fit for constables, are taken to be fit rulers of a Union of states.

The word "bureaucracy" is ever flitting before the popular mind as the thing of all things to avoid. And it has become a universally-accepted axiom, that officers educated, disciplined, and qualified for public functions are this dreaded bureaucracy; for a secret presentiment tells the uneducated, undisciplined, and unqualified, that such a mode of getting public servants excludes them, and they readily take up with any prevarication that prevents the adoption of a good system. So the people have no standard for their suffrage except their own will, and those who dispense patronage have no criterion except their pleasure. So also are all aspirants for public position without a clear guide or incentive for their conduct. They know that popularity is nine-tenths of success in a public career, but popularity does not mean public esteem for virtues, or fitness. On the contrary, it means a mystification, because that which wins respect before the body of society does not secure it within the party, whose goodwill is the *sine qua non* in ninety-nine out of a hundred cases. And that goodwill can only be secured or retained by doing things that ought not to be done, and leaving undone what ought to be performed. That is the reason, why no mother sees her son enter the political field without serious doubts as to the outcome of his life. And why are they anxious? Because the parents know, that their son is putting himself under a yoke, of which no one can tell, whether greatness or littleness is most in the way of passing it with honor. Slippery are the ways of royal courts, but those of our elections and appointments are absolutely treacherous to all, who walk in them and rely only on their rectitude.

The Presidency is the Polar star, which acts on American politics like a bewitched barometer. It is, besides, the fascinating cornucopia filled with objects of ambition, of wealth, and personal gratification for thousands each year. For some the President can hardly be too great; for much the largest number he can hardly be too little. To arrive at the point, when his greatness is inquired for, an aspirant for the position has to pass through an ordeal of littleness, which makes the re-expansion afterwards to the proper breadth and height almost impossible. Each nominee is, indeed, puffed with might and main before the election, which enables him to regain some of the self-poise, which he needs to discharge his duty;

but woe unto him, if he should attempt to do without his party. A Sixtus V. could rise to the full dignity and authority of a Pope as against a conclave of cardinals; but no man would dare to act a similar part in the United States. The prestige is all against such a procedure, and before his plans could be ripened, the four years would run out, and leave him stranded on the eternal lee-shore of American politics. The popular mind has as good as forgotten, that the constitutional mode of electing a President has been entirely set aside. Does anybody believe, that states and peoples, who forget so easy and so entirely their constitution, will ever be aroused to the fatal tendency which centres in our presidential elections, sufficiently, to have some *modus* found by which the worst will be obviated? If so there be, we frankly confess, that we are not of the number.

The Presidency is now the *point d'appui* not only for the officials of the United States, but also of the states and their municipalities. The press is also largely involved in the turn of each presidential canvass. We estimate the total number of persons that are directly interested in the cast of the presidential dice at 130,000, and those indirectly at 260,000; making a total of 390,000. The amount of money, that falls one way or the other, as the chances turn at elections, in salaries, fees, perquisites and per diem, including profits on public jobs, is at least 340 millions, or an average of \$2615.00 per annum, or \$10,000 for each four years, to each of the successful 130,000 office-holders and jobbers. This is the most enormous amount of distribution of election spoils ever involved in the chances of politics either in the past or the present. It is an amount of fuel to party passions, such as no country and no government ever withstood. Consider now that this entire sum goes to a body of men, who with few exceptions have never earned their own living; that hardly one out of a thousand recipients gets his part from correct motives, either on his own part or of those who give him the office or the job; that those who pay the money are taxed by unjust laws, the taxes being collected by inefficient as well as corrupt administrative methods; and next, that a large additional part—say fifty millions—are annually thrown upon posterity through public debts; and we realize to some extent the accumulation of evil this carries forward.

The meter by which to measure the estimation in which a people hold their public administrations, exists always in the amount of political work which they are willing to confide to their hands. And we may safely say, that in no country on earth is there less confidence in the efficiency and honesty of



public administration, than in the United States. American society would rather pay more to have government do less, than to pay less and have it do more. And there is to-day no government on earth, which might in almost all its parts be so entirely dispensed with without detriment, as ours. Their *worst* doings are malicious intermeddlings; their *best* are bunglingly executed public acts. In the United States alone is it still an unquestioned maxim, "that that government is best which governs least;" and it is not even suspicioned, that the cause of its retention here is due to the fact, that in this country still prevail in nearly every branch of the public service the defective administrative organisms, that originated this maxim in former times. What government we have is unstable, very dear, does very little good, and is ever disturbing instead of harmonizing society. It is only *not* tyrannic in those things, in which it needs no tyranny to effect its purpose.

The cause of this tyrannic disposition (some call it: energy of character) is attributed by some to public humors inherent in democratic institutions. We deny it, and claim, that it is caused by the peculiar social developments here, which still allow the pursuit of partisan extremes with comparative impunity. Our society is passing out of this condition in parcels. For a while it seemed, that density of population would, as it grew, be the simple solvent, and that as society would then react upon itself quicker and acuter, so would also disappear the peculiar recklessness called: Americanism; but it looks now, as if the social reaction would be continually counteracted by the political partisan reactions, and that they would use the party infatuations of the people to prevent society from recognizing, or even thinking over, its anarchic or, if you please, audacious procedures, and the social conditions which they cause.

All that it is proper for us to say here, is: that American society is not yet organic; that is to say, it does not evolve a wise public will, nor has it a good polity. It is therefore without a political government in the right sense. The ethics which rise up in spite of these conditions never become rules of action. They are exotic plants, and their timid appearance contains a self-confession, that they are unsuitable to their surroundings. The persons who present them, soon after again withdraw them, asking to be excused for the intrusion. We have actually arrived at the queer situation, that those who intensified all the wrongs they found when they got into power, use the fact of these intensified previous wrongs, as an argument against their removal, and as a reason for not confiding in anybody else.

The war of 1861-66 burst all the restraints, that had, up to that time, held the commonwealth from being abandoned to the hungry place and contract seekers. They had now a plausible and high-sounding pretence for their ingrained mercenary spirit; and with it they overran every obstacle, that economy or political science or public virtue would have interposed. Their pretences were aided by paper-money issues, and by the general mercantile demoralization that ensued; for the whole financial policy had but one great object, that of preventing a popular cognizance of the true situation, and a setting-in of currents against the prevailing waste. The spirit of extravagance spread rapidly from the national to the state governments, and from them to all municipalities. The federal debt was swelled fifty-fold, and the annual expenses for the government were after the war, and have now been for several years, and will hereafter be, about 250 millions per year, or at least four times the average between 1850 and 1860. The table on page 505, compiled for and published in the New York "Bulletin," an impartial paper, shows the extent to which the public economy was and is demoralized in fourteen of the largest cities of the United States.

Please, however, not to understand us as making the war of 1861-66 the *cause* of the present public demoralization. No! it was itself the result of previous unethical conditions. The war only increased all the political diseases and intensified them. The main trouble now is, that public conscience is blunted in its moral sensitiveness, so that to-day a civil war is much more likely to happen than ever before.

The principals—Chase, Seward, and Douglas—whose ambition hurled us into the war, are dead. Were they alive they would now do their utmost to keep the peace. But their seconds—Banks, Garfield, Cameron, Fremont, Gratz, Brown, Sherman, Hayes, Blaine, Harrison, and not to forget Grant—are alive to-day, and their standard of public conduct is still the same; that is to say, they subordinate country to party, and not one of them will hesitate to employ war as the solvent of situations, for which our politics have no remedies. The question returns therefore to this: How are all our public questions related to the regular authorities and the great bodies-politic? And we almost wish we were blind, for then we would not see the fact, that not one of them is in process of a solution which can be accepted as final by a well-disposed public will. The negroes meditate an exodus into the northern states; the immigrants from Europe fear attacks on their social habits and domestic economies; the producing and husbanding elements of society are the victims of ambitious financiers; the consumers have

Cities.	Population.		Valuation.		Taxation.*		Indebtedness.†	
	1860.	1875.	1860.	1875.	1860.	1875.	1860.	1875.
Baltimore	No. 212,418	No. 347,560†	\$ 137,314,922	\$ 231,242,513	Pr.ct. 63.6	Pr.ct. 110.4	\$ 17,993,855	\$ 39,943,426
Boston	No. 247,496	No. 341,919	\$ 319,245,109	\$ 703,961,895	Pr.ct. 37.9	Pr.ct. 104.8	\$ 11,314,028	\$ 45,134,261
Brooklyn	No. 266,661	No. 484,616	\$ 105,174,507	\$ 225,176,755	Pr.ct. 82.7	Pr.ct. 141.1	\$ 7,095,246	\$ 30,115,000
Chicago	No. 109,260	No. 395,408	\$ 37,139,845	\$ 303,795,491	Pr.ct. 261.9	Pr.ct. 730.7	\$ 3,422,500	\$ 20,698,966
Cincinnati	No. 161,044	No. 275,408†	\$ 93,032,706	\$ 181,950,974	Pr.ct. 71.3	Pr.ct. 144.5	\$ 4,101,820	\$ 10,542,000
Detroit	No. 45,619	No. 101,255	\$ 11,219,793	\$ 27,774,630	Pr.ct. 122.0	Pr.ct. 377.5	\$ 1,088,765	\$ 2,282,960
Louisville	No. 68,939	No. 124,934†	\$ 30,107,962	\$ 76,977,314	Pr.ct. 83.7	Pr.ct. 384.8	\$ 951,091	\$ 1,398,000
Milwaukee	No. 43,440	No. 100,975	\$ 12,306,749	\$ 51,334,883	Pr.ct. 123.2	Pr.ct. 315.1	\$ 5,592,600	\$ 10,417,959
Newark	No. 71,941	No. 118,716	\$ 30,045,289	\$ 105,623,710	Pr.ct. 65.2	Pr.ct. 326.6	\$ 1,069,033	\$ 2,421,428
New York	No. 813,669	No. 1,046,037	\$ 576,631,797	\$ 1,154,029,176	Pr.ct. 28.5	Pr.ct. 558.8	\$ 316,000	\$ 8,716,000
Philadelphia.	No. 565,529	No. 738,724†	\$ 454,835,316	\$ 575,283,968	Pr.ct. 30.6	Pr.ct. 430.9	\$ 23,239,671	\$ 140,379,103
Providence.	No. 59,666	No. 100,675	\$ 61,118,390	\$ 122,024,100	Pr.ct. 98.7	Pr.ct. 377.8	\$ 24,029,755	\$ 60,622,132
St. Louis	No. 160,773	No. 456,102†	\$ 59,817,666	\$ 164,394,010	Pr.ct. 183.7	Pr.ct. 443.3	\$ 1,400,000	\$ 8,816,046
San Francisco	No. 59,802	No. 271,230	\$ 37,219,702	\$ 294,229,444	Pr.ct. 377.5	Pr.ct. 538.2	\$ 4,839,060	\$ 17,297,060
Total 11 (14 cities-)	No. 2,875,157	No. 4,903,669	\$ 1,665,269,423	\$ 4,279,702,612	Pr.ct. 70.5	Pr.ct. 156.9	\$ 109,808,419	\$ 497,218,351
New Orleans	No. 163,675	No. 295,241†	\$ ..	\$ 119,292,504	Pr.ct. 21.7	Pr.ct. 122.3	\$ 10,419,710	\$ 28,288,100

\* "Taxation" includes State, County, &c., taxes levied on the cities.

† "Indebtedness" states the gross debt, irrespective of sinking funds, and property available or set apart for payment of debt and interest.

‡ "Population," 1875, indicates that the amount is estimated on the basis of the increase from 1860 to 1870. Otherwise the population is according to census.

§ "New Orleans," figures not obtained; but probably they were larger in 1860 than in 1875, as they would include slave property.

|| "Total" omits amounts for New Orleans.

Increase in Population	70.5 per cent.	Increase in Taxable Valuation, per head	50.68 per cent.
Increase in Taxable Valuation	156.9 per cent.	Increase in Debt, per head	117.46 per cent.
Increase in Debt	270.9 per cent.	Increase in Taxation, per head	171.65 per cent.
Increase in Taxation	363.2 per cent.		

their wants made unnecessarily costly by tariffs; and, to sum it all up: no one loves the country and its governments *per se*—they are both loved and hated from ill-tempered motives.

The most discouraging sign in American politics are the partisan primary meetings, conventions, executive committees, and campaigns. The best that could be said of them would be that they are harmless; but that cannot be done: for no one can know them, and ascribe to them any good. They are bad mediums for picking out candidates, and they oftener thwart their election than they further it. But as elaborators of the public will they are the most pitiful failures. How can there be concert of action between a lot of men who come together by chance, and who have to do in an hour or two, that for which they ought to have days, if not weeks? They select men and erect platforms not by the rule of what ought to be presented, but by the consideration of success at the next election. The immense cost of such bodies—often several thousand dollars—may be the least evil; and the immoral effect on society and the state, the greatest. But to our mind the whole thing is a dreary waste of capacities, means, and opportunities in methods, that accomplish nothing, where so much ought to be done. *Vacuitas dolorum!!* We have attended many of these gatherings, have met many excellent men there, but from first to last we have yet to encounter there the man of sense, who was not disappointed in them as he returned home. This is not the case so much from bad will, but it is due to the fatuity of attempting to carry on politics with such clumsy machinery. *That* makes these bodies so absurd in their proceedings and so futile in their results.

The misconception, that material prosperity is proof positive of good government, is more than ever, and far more than elsewhere, rife in the United States. And nowhere does it more mischief than here; because here the worship of popular error is most abject. A public man, who would tell our people the truth, would simply be an impossible politician. The masses are ever quickly offended, if told of the true cause of all their exceptional growth and development; for it deprives them of their greatest pleasure, that of imagining themselves standing on a pinnacle of glory, and pointing to their political institutions as better than those of any other country. Those who point to the want of protection to person and property as well as reputation; or to the defective administration of public affairs; or to the degradation of the men of talents that have a sturdy consciousness of their culture; or to the miserable trash daily spread before its readers by the press; or to the false standards of



popularity ; are quickly told : " Sir, why do you not leave a country and a people so foul ? " The understanding is entirely wanting, that such replies are not only absurd, but cruel ; for what can be meaner than to point a man, who loves a country and speaks the truth of it, because he loves it, and because it has become his and his family's only home, to emigration as his ready remedy ? Is not such conduct a self-confession on the part of him who is guilty of it, that the country is politically in a low condition ? Emigration is certainly never resorted to, as long as any other remedy exists. Doubly base is such an answer when made to an immigrant, who left his native land because he believed that its rulers lacked wisdom and virtue, and is now doubly oppressed, because to the pain of having testified by his departure against his own country, he has to add now despair of the government he made his own by immigration.

General Grant, who has just returned to the land of his birth from a tour around the globe, not only gives vent to this flattering propensity at every ovation tendered him in the various cities, but he causes ebullitions of the same, only more fulsome, in others. In spite of this there are apprehensions abroad in every part of American society, that the true spirit of free institutions has departed ; that a people, which belittles itself before a fellow-citizen, is ripe for a king. As if having a king were the worst fate of a nation, and as if there was not a much more miserable condition ; that of republican institutions *in name*, but an all-pervading absolutism *in fact*. That Grant's exaltation is but the logical outcome of illogical politics ; that the adoration bestowed on Grant is popular self-worship arising out of mutual illusions, which have been intensified by the honors paid to Grant on false information that seems to escape the popular perception. To us it seems plain, that we have not and shall not have a king, nor an aristocracy, simply because that form of tyranny is unpopular ; but we have and shall have tyrannic parties, because American politicians admit, yea advocate, their necessity. That which people think, they *must* have, is always the source of future overpowerings.

Instead of the symmetry of a wise Constitution, we have the disarray of parties ; in lieu of the Senate as a States body, we have a conventicle of masters of States cliques ; in the place of a House of Representatives that embodies society, we have a conclave of wire-pullers ; in the room of courts of justice whose judges had, if not abandoned their ambitions, at least measured them and seen its vanities, we have courts whose seats are encumbered by men, who regard them as temporary resting-places from which to step either to a lucrative private practice or to

some high political position ; for State governments that deserve sovereignty by being the mediums for a special sphere of usefulness, we have bodies-politic that ever grasp at a sovereignty, that has no State reason in it, and ever ends in political vanities ; instead of parties that are the spiral springs of a good political clockwork, we have parties that are but the pendulums of central party power ; and in lieu of free municipalities and vigorous administrative authorities and police forces, we have cities and towns subject to partisan mercenaries, that rob society by levying taxes, taking blackmail, and heaping up public debts for posterity to pay.

As to the formation of morals and an ethical public will, our society stands one-half aghast at the perplexity of the problem before it ; and the other half is misdirected, and labors either for obsolete or ultra-pietistic regulations, which American society is ever again, when tried to be fastened upon it, spewing up. The organisms for the better development of sound moral and political rules are therefore exceedingly circumscribed and inadequate. The churches and their clergy are, in consequence of a fictitious separation of church and state, without their real sphere, and are wasting their energies in seeking to regain it, without understanding what it is. The education and discipline of their clergy bids them to follow *Calvin*, whose state was but a church ; but popular ideas restrain them, and force them to be the mediums of a state that is to be, whatever else it be, at least no church. The professors of religion in the United States are, therefore, what Schiller points out as the most unhappy of conditions for the truthful solution of questions—"one-sided correctors of one-sided public opinions." Our politicians have the same fault as to politics. And as our teachers, be it in the pulpit or the desk, the cathedra or the rostrum, or stump or press, are, with very few exceptions, bound up either in the one or the other one-sidedness (mostly in both) ; they hinder, indeed we may say, prevent, the rightful moral and political development of American society.

Caught as they are within the cross purposes of a public mind, that can neither have the religion it wants, nor that, which it should want, they war upon the only other medium for correcting church and state, as well as society—the *theatre*. Its proper use is a lost thought in America ; we have almost nothing left of it, except either a licentious hankering for its abuse, or a sickly, idiotic striving for its suppression. Between these two tendencies, the masterpieces of Shakespeare, Racine, Corneille, Lessing, Goethe, and Schiller live upon the American stage a sort of clandestine life, and are chiefly retained by the tastes of

persons born in Europe. The mass of the natives seem entirely absorbed in the pursuit of wealth, and the assiduous cultivation of religious stultification. There have indeed ever been dreams of a rejuvenated world, of a re-enlightened gospel, of refreshed and re-elevated idealities, of purified re-explanations of the Book of books, as the mission of American society. And an improved and purer Stage was not totally forgotten in all this; but the large stream of private and public culture as to manners, morals, and politics, has been running over shallows, around the curves and within the circuits of formulæ, creeds, and political rules, that came to America with the Puritans and their like in the seventeenth and eighteenth centuries. Hence the sorrowful thought rises to our minds, that if the United States had, as occurred for Iceland and Greenland between the tenth and fifteenth centuries, lost its literary and political connection with Europe, that there would have been here also a stagnation as to poetry, epics, jurisprudence, and socio-political growth. For deep in the American mind lies still the reverence for the old narrowness, that is almost forgotten and obsolete in other lands. Of the things most impeded thereby, is the histrionic art and the best use of the dramatic stage. As to culture, America still stands before us like a thing that is indeed full of eloquence, but has padlocks on its mouth.

Our political parties as well as our religious sects have at this time a dread of violent public demonstrations, which is ridiculous, when we consider, that all they do tends that way. They all refuse to put themselves under the guidance, which might keep them out of mischief, and both are rushing into the arms of either the incapacities or the wicked impetuositities among our public men. All fan the fires of prejudice, and it makes no difference, whether it be in favor of some long-exploded error, or for some modern infatuation; or whether a church, a sect, a coterie, a faction, or a party holds it, and whether the aim be wrong, ecclesiastical, communistic, socialistic, or political acts; so it promises a victory at the next election to affiliate with it, and it becomes a potent force in our politics; for all will worship it, though some may do it with an averted eye. We can except from this no measure, even if it meditated the most brutal upturning of society itself, that would not gain the support of both our political parties, if its advocates could present a compact minority capable of giving the one or the other the political power in Washington. The Republican party is nothing but the old Whig party reinforced by the abolitionists, of whom they knew, that they meditated the overthrow of the lawful institutions of the United States. They affiliated with them nevertheless.

We must, in conclusion, once for all understand, that America has passed from the milder and more or less habitually restrained pursuit of riches of the previous centuries, in which the common effects of head and heart were at work, into the condition of highly stimulated desires and passions; and that it has passed from efforts, that sought their gratification by social ways and means, and by commercial and industrial strife, to the employment of partisan forces for these its purposes. All our public actions are therefore more demonstrative, more striking, and more colossal. Our private business relations have, on the other hand, become those things, in which most industry, most caution, most frugality, and most skill is necessary for success; while our public offices have become those places, in which the least knowledge, least economy, least faculty, and least genius is necessary to make a living. Hence all our cupidities have there their culmination, and there will of course be there also the final outcome of the whole procedure. It lies before us in all its grossness by a President put into the chief magistracy by fraud, and the fixed determination of both parties to carry their point next fall—peaceably, if they can; forcibly, if they must. We stand thus on the eve of great commotions, with a public mind filled with false ideas upon every subject, that concerns our public life. Our people would like to be rich *and* free, but, rather than not be rich, it will forge its own chains.

It has forged them already by intrusting the public *administration* of over one-fourth of all the wealth of the United States (8000 millions) to railroad, bank, insurance, and other corporations. Their offices are now the “bureaus,” where American politics are, so far as one of the great parties are concerned, controlled. Every day this amount is increasing, and soon there will be, in these corporations, full half the wealth of the country, and be used for gaining advantage over the remainder.



## CHAPTER XXVIII.

*PERSONAL NOTICES.*

“ Every great man means to work for eternity.”—*Schiller.*

WHOEVER has observed the treatment, which prominent characters receive in America, must have noticed, that their good or bad reputations are more evanescent, than is the case amidst contemporary nations. The cause hereof must lie in a want of a full understanding of the sources of the good and evil that mars or beautifies our environments. We praise too readily and too highly, and again blame too much and too sharply. We mistake evidently the right of society to be the alpha and the omega of all public policies, for the right of the persons composing the respective society to form hasty judgments at pleasure, of the men acting on its behalf. A people's cause may be a supreme object, while those interested in it may not be fit to form a supreme opinion. Indeed, we may say, those causes are best served, of which there is least spoken and published while it is being carried on. It is, as Schiller well points out in the above quotation, the special attribute of great men to think much of the future, and to say but little; a remark never yet made of multitudes. They are necessarily bound up in thoughts of the present, and they are sure therefore to misunderstand a public man the more, the further he forecasts events, and the more he subjects existing means to the projects, which his mind has formed. To presume these to be always right, is as erroneous as to presume them always to be wrong. It is the intermixture of personal and private with public interests, that gives the false cast to the multitudinous as well as the individual mind. The question always is: Who has it the most? And if only both bear this in mind, they will find, that neither has the exclusive right to judge the other; and that it is far oftener of importance to a right understanding to inquire: what do the great men of the time think of the people? than it is to know, what the people of a period think of their great men. Who cares much to-day for the results of elections of Roman

consuls, as aids to a formation of correct opinions on men and things then in question? What still concerns us, however, are the preserved opinions of the men voted for or against, as furnished by true historians.

This chapter and its personal notices is written for the purpose of giving the impressions we derived of the persons named in pursuance of our investigations. We hope, that we have cleansed their fame of some of the grosser misjudgments, and that we have fallen into none ourselves. We give them under five heads—(1) the revolutionary Fathers; (2) the equivocal period and its men; (3) the spoilers of American government; (4) the American fatalists, and (5) the traitors. The object of the division is to bring out their periodicities, as well as the range of thought, that imparted to them their special characteristics.

And we allow ourselves to premise them by a few farther brief general observations.

American great men owe their distinction entirely to themselves. They had neither hereditary privilege, nor royal favor to push them forward or to hold them back; but they had support as well as hindrances from popular admirations or dislikes, and also from the good or ill will of official persons, chiefly our Presidents. The public has not been steadfast to any of them, nor have they honorably assumed the responsibility for their choices or rejections. If things went right they allowed themselves to be flattered, and if things went wrong they shoved the blame on their own creatures. On the whole, then, public men in America have had and have a hard time of it. The "Sorrows of Werther" have had an author, but the sorrows of candidates for public favor, in this land of liberty, have never been written.

It was a double, fearful mistake to transfer the old English rule, that "the king can do no wrong," to the American people; because it brought popular self-delusion on the one hand, and injustice and neglect of the best men of the land on the other; for it made them the scapegoats of many evils not caused by them.

Clay's remark: "I would rather be right than President!" exhibits the poignancy of his feelings in the presence of a people whose votes were only to be got by accepting their fiat as right *per se*, while he could not help being conscious, that his single mind was more likely to seek and to find the truth, than a multitude caught in the mazes of its own will. He knew, indeed, that the other extreme, that of holding the people as always wrong *per se*, was also an error; but his desire to be

President, although subordinate to his own sense of right, was still strong enough to keep him from rising to the sublimity of telling American society the full truth. Had he been a laborious learner as well as an eloquent orator, and he would have known that society is never entirely wrong or right; but that a very close approximation to rightfulness may be attained by subjecting public opinion to the crucible of public discussion, legislative, executive and judicial deliberation, and thus forming it into a mature collective will.

Clay did not become President! He died, like his rival, Van Buren, a disappointed man, though the latter did become President. Both were the victims of the American politics of their time, that would sacrifice any public man that dared to think for himself. But it behoves us, that stand before their tombs, to realize Heine's words:

"Beneath every gravestone is a world-history."

With it before us, we can bring out, as to the American statesmen, who either partially or totally missed their career, that they did so, because they served a society, that was too self-sufficient to treat them right.

We could not help becoming aware, as we prepared ourselves for writing this book, by what the Germans call: "*Quellen Studium*," that American memories of their great men are but a charnel-house of either disfigured or falsely-remembered personages; and the thought arose that some time somebody should attempt to rescue them from the unrealities, with which either malevolence or adulation had bedaubed their fame. We concluded, perhaps too rashly, that we would attempt this for at least a portion of them. So we had to be, as the poet wrote:

"A chiel's amang you takin' notes,  
... An', faith, he'll prent it."

And these notes assumed finally the shape of the "Personal Notices," which are before the reader. They are not biographies, not even in a supplemental sense; but brief sketches or, if you please, fragmentary delineations of what, we think, were the real characters of the men named.

And we hope it is proper to add: that this part of our work acted as a test of our previous labors, and that it was a great satisfaction to us to find, that the later narratives confirmed the preceding enunciations, and that we now had a portraiture of human lives that appeared to us to be a necessary complement of previous remarks. They test American politics by placing in juxtaposition actual men before actual things; a consummation

that seemed to us to be very necessary. The result, on our mind, has been a conviction, that men have, as a general fact, been truer to American society, than it was to them; and that it is high time, that this condition of things should receive its rectification.

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## THE REVOLUTIONARY FATHERS.

### GEORGE WASHINGTON.

"A good character shines by its own light."—*Publius Syrus*.

WASHINGTON was much esteemed by his countrymen, and also by the British high officials that were sent here, before the revolution. But by neither as fully as he deserved. Nor was he by either as much employed, as would have brought out his full capacities for the Colonies or the States respectively. Great Britain's colonial policy rested on the assumption that the glory and profit of the mother-country was the criterion of all public steps; and they could not employ Americans unreservedly, up to their merits, for they did not want them to be *great*. The American people labored, however, under a similar misconception; they admired themselves so much, and believed their grandeur and opulence of such transcendent importance, as compared to the careers of individuals, as to make them ever stingy in the conferment of powers. Washington never received the authority, nor the army, nor the money that "would," to use his own words from his Circular Letter, dated Newburg, June 8, 1783, "have brought the war to a happy issue in a shorter time and with less cost." He was unjustly blamed for miscarriages, "which" (again using his own words) "were due to the feebleness of the respective governments and the inadequate use of the public resources." And he added: "Inefficiencies were caused by undue restrictions placed on the powers proper to be exercised by the highest authorities." He speaks in the same letter of the "confusion that discouraged the army," and he charges it on "the notorious defects of the then federal Constitution."

The intrigues of Conway, secretly seconded by Mifflin, look incredible to us; they were but too true of the period—1775. They were backed by a strong popular feeling, that believed that



liberty was preserved by allowing no man to grow great. It favored frequent changes in commanders, just to let them know, that the only safe greatness is that of the people. American society was then, as now, not correctly self-poised, or it would not have diminished Washington's usefulness by these little jealousies. How easy such a weak public mind flops over into the other extreme, we read in the same Mifflin's address to Washington in December 23, 1787, when that hero resigned his sword to Congress. Mifflin then said: "You have by the love and confidence of your fellow-citizens enabled them to display their martial genius and transmit their name to posterity. You have persevered till these United States, aided by a magnanimous king (Louis XVI.) and nation, have been enabled under a just providence to close the war in freedom, safety, and independence." These words were preceded by praising Washington's "fortitude and wisdom, as well as his invariable regard for the rights of the civil power through all disasters and changes."

Washington had himself expressed gratitude to Congress "for its confidence in the rectitude of our cause, the support of the supreme power of the Union and the patronage of heaven, and the assistance he received from his countrymen." He spoke also of "the peculiar services and distinguished merits of the gentlemen attached to his person during the war." Thus the mantle of oblivion was thrown over the real condition of things, and a whole people and the States, received the glory that was achieved by a comparatively few master-spirits under the lead of a hero.

Washington himself must have been conscious of his being an exceptional being, but he understood too well the sensitiveness of the people, to confess it aloud to himself, or to let anybody feel the inner cause of the dignity in which he secured his personality. Situated as he was, his only means towards this end was great reserve and wise silence in social intercourse. There are a few instances when he broke it. The most marked was his Circular Letter, June 8, 1783, when the war was over and he was about to retire from his military command. He there gives his reasons for speaking graphically, to wit: "Since I am thoroughly convinced of the importance of this moment, it would be a crime to remain silent." And he seizes "the opportunity by the forelock" to tell his countrymen, that "the United States have the choice between being a people honored and happy, or to be miserable and despised." And he points out to them, "national honor, the right elasticity of the general government, and individual virtue, as the foundation of a happy future; and the reverse as the sure forerunner of an un-

happy future." But even in this, his hour of open speech, for which he had waited seven dreary years, he could not conceal from himself, that he was addressing a people, many of whom were callous to great civic virtue like his; and who would therefore attribute his frank declarations to vanity and arrogance. He offered, therefore, excuses for giving golden counsel to his country, but we need only to read them in the advice that goes with them, to know, that they were really incisive upbraidings of those of his countrymen, who dishonored their country through their demand for more and more paper money, so as to escape their own share of the public burthen. How sublime are his closing words: "Without a supreme direction the Union cannot long exist." He of all men understood whence the "bogs" came into American politics, and whence the "clearances."

What else than a consciousness of his being at that time (1796) the embodiment of the ethics of the nation could induce him to issue his farewell address? He offered it as containing: "the sentiments which appeared to him all important to the permanency of the felicity of the people, as the result of much reflection and no considerable observation, and he desired his countrymen to contemplate upon them solemnly and to review them frequently." He foretold the rock upon which American politics would split, viz: "local prejudices or attachments, in separating views and party animosities." And he pointed out, as "the true foundation of national policy, the pure and immutable principles of private morality." His test for government was that its administrators should possess "the attributes which can win the affections of its citizens, and command the respect of the world." A more correct remark could not well be made against the proclivity to make American public opinion the only criterion of public conduct. His idea was "national rectitude by the standard of international ethics." He was equally advanced in questions of political economy, and said: "There exists in the economy and course of nature an indissoluble union between virtue and happiness, between duty and advantage, between the genuine maxims of honest and magnanimous policy and the solid rewards of public prosperity." He, wiser than all that followed him, saw the danger of hasty and passionate constitutional amendments, and he bid his country "to avoid every alteration, that might endanger the benefits of a united and effective government."

He announced the keynote of political reasoning in declaring that "the very idea of the power and the right of the people to establish government, presupposes the duty of every individual to obey the established government." Modern political science

formulates the same idea, by stating, that "when society obeys the necessity of establishing government it carries with it the obedience of all its members." We have thus individual free-will limited by the necessity of a collective public will.

Washington reasons out the wrong of parties aiming to be the government, as follows. He says: "It (partisanism) consists in organizing factions, in giving them artificial and extraordinary force, and in putting in the place of the delegated will of the nation, the will of a party." He prophesies "that parties would be often governed by a small but artful and enterprising minority of the community, and that this will lead to incongruous and ill-concerted projects." And he tells us why this works badly, to wit: Because "parties are not the organs of consistent and wholesome plans digested by common councils and modified by mutual interests." As in national matters he puts international law above national politics, so he places the collective will of the whole community over that of a mere majority.

Washington thought "party spirit inseparable from our nature, having its root in the strongest passions of the human mind." We opine, that human nature is here charged with a sin, that arises only after man lives under political organizations. Must we not distinguish between parties organized as means of resistance to usurpations, and parties claiming a perpetual existence and to be public authority itself? Washington says himself, that "party spirit exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of popular form, it is seen in its greatest rankness, and is truly their worst enemy. Disorders and miseries result, and gradually incline the minds of men to seek security and repose in the absolute power of an individual." He adds afterwards: "In governments of a monarchical cast, patriotism may look with indulgence, if not with favor, upon the spirit of party." Is not the distinction made by us the truer one? Not because a government is royal or imperial, or aristocratic or democratic, is party opposition justified; it is proper and rightful only as an organization against specific evils, such for instance as against a badly-administered government. And we surmise, that Washington inveighed against all party spirit in republics, because he had in his eye the embryos of the two parties, which afterwards were born through the personal antagonisms of Adams and Hamilton against Jefferson and Madison, and usurped the government as standing parties. There is a vast difference between parties organized upon—*invented*, and those that have—*real* causes. And so there is between parties that claim to be the perennial outside regulators of government and

parties that spring up from transient causes, and which disappear again when these causes have ceased to act. The inner sense of Washington let him foresee the incongruity of British party government with American institutions. He knew it to be but a strife for power between the "ins" and the "outs," and all must agree with him, that such a party spirit should be discouraged.

Washington's farewell address is full of other axiomatic truths. Take the following: "In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened." And again: "Public debts throw ungenerously upon posterity the burthens we ourselves ought to bear." A modern financial scientist calls them "corrupt and corrupting taxation." Washington knew only of public debts incurred in our revolutionary war, and he had to deal with a public opinion, that was shirking these its obligations under various pretences. And yet it was ever rife to use public credit for every conceivable purpose, with a view to evade fair assessments and correct taxation. He said therefore: "One method of preserving public credit is to use it as sparingly as possible; avoiding occasions of expense by cultivating peace." How painful to Washington's mind would be the present condition of public morals on this subject. We have public debts magnified through paper money, and paper money magnified through public debts, both incurred, in most cases, for speculative reasons, lavishly used for unripe objects, and representing, often, mere waste of public means, and unjust, as well as unreal, conversions of private into public wealth. Such debts are surcharged with popular dishonesty and ignorance of economic laws, and consequently ever exposed to repudiation!

Golden are his counsels on the foreign policy of America: "Good faith and justice to all nations, no habitual hatred or fondness towards other peoples; but a steady advancement in all that gives strength to a country, so that it may as soon as possible self-dispose of itself, that it may be able to choose peace or war, as its interests, guided by justice, shall counsel." At the close of his farewell address he is not oversanguine of the effect of it, but he hopes that his counsels "may now and then recur to moderate the fury of party spirit, to warn against the mischief of foreign intrigues, and to guard against the impostures of pretended patriotism." He died uncertain whether: "the administration of the government would be stamped with such wisdom and virtue as will acquire for it the applause, the affection, and the adoption of every nation."

Washington would frequently speak of himself as "unequal



to the commands he was honored with," and he admitted again and again his "deficiencies" and "inferiority in qualification;" but it would be a mistake to take him at his word. All his remarks prove, is: that he had a very vivid sense of duty, and an exalted conception of the obligation of all who are placed in office, to be qualified for it. What would he think of our generation, that acts upon the idea, that everybody is qualified for every office? When he left the Presidency, he could honestly say of his administration, that not a single man was appointed for any other consideration than his being both technically qualified, as well as a man of untarnished honor and reputation. What a change since then! Now outgoing Presidents have only retrospects on abuses of the appointing power for party reasons! We have had several accidental chief magistrates, of whom it can be said in all truth, that they never conferred office on any person for the true reason. Happy Washington! He alone could say: I was elected without a party; I have no party, and need none. His eight years' administration were the only eight years, when there was a pure constitutional government. He was President in the true sense. His successors were either masters of their parties or their slaves; often alternately both in the worst sense.

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### BENJAMIN FRANKLIN.

"It is the wise man only, who is always pleased."—*Confucius*.

THIS adopted son of Pennsylvania was a very different character from Washington, and of a much less exalted type. He was diplomatic by native talents, which were sharpened by Quaker education and habits. Though he desired, from a sort of instinctive benevolence, to make mankind better, he accepted it as it was, and understood with Goethe that "cleanliness is often attained amidst a good deal of uncleanness." No pretentious purity abashed him, nor was he overawed by either royal or democratic mock majesty; for he was a ready hand in taking the true measure of men *and* women. He ever looked for the "*human*" in high and low, and understood very well, that American humanity was simply different from European, because it had a broader and free-er field for the pursuit of happiness. Neither he nor Washington ever had or ever will have successors in American politics; the last named was too pure, the other too sensible, to suit our partisanisms.

Franklin's prognosis of America was very simple. He said: "Population increases in proportion to area and means of existence; America offers both, and will therefore be populous; and all it needs government for, is the organization of forces so as to protect the free development of its society; men eager to possess wealth are easily governed; because they take readily to direction; and need but little regulation; *Laisser faire, Laisser aller*, is good policy for America at least; we want but little government, and that little mild; and rather in the form of public volunteering than government coercion." Philip II. of Spain wanted his Spaniards to be *proud*; Franklin wanted his Americans to be *free*.

Franklin likened governing in America to the driving of a spirited horse; the main point being to bear just enough on the reins to direct him. He could have no fears that these social conditions would soon cease, provided the back-country was kept open for the people; but if that was not done, then he apprehended, in 1754 already, that "the population confined to the area between the sea and the Alleghany Mountains would not increase in numbers." When the French war was over, and the north-west was open to Anglo-Americanism, he dropped all anxieties about the country's future, for he never troubled himself about too remote consequences. Economizing present means was his main idea for future wealth and greatness, and he was too good a mathematician to ever believe, that organizing a totality made the parts thus combined greater than they were before, though he claimed, that it imparted greater efficiency for given ends. He knew the disinclination of all publics, including the American, to admit obligations to public men while living; so he retired before they got tired of him, and he enjoyed from his retiracy, with philosophic dignity, the pleasure of looking at the little—big—world he had helped to make, as it moved without him; and he enjoyed the thought, that it would move on after his own final departure.

His quiet remark: that "the satirist may laugh, the philosopher may preach, but reason herself will respect the prejudices and habits, which have been consecrated by the experience of mankind," is a key to much of his conduct. He comprehended particularly, that all men, and his countrymen especially, are easiest ruled through their prejudices, especially their patriotic ones. He kept himself aloof from them, and never, for instance, yielded to the idea, that America could do without the literature, the wisdom, and wealth of other lands. His suggestion, "for raising a united

party for virtue, by forming the virtuous and good men of all nations into a regular body to be governed by suitable good and wise rules, which good and wise men may probably be more unanimous in their obedience to, than common people are to common laws," was an anticipation of the very steps so frequently now taken for bringing into political controversies international reason against national unreason. Mr. Faucher, late editor of the *Quarterly* for Social Science in Berlin, expresses the same idea in the number, July 1876, in the words: "The time for mere national culture and civilization is irretrievably past. The world is striving for legislative unity and equation."

He saw, that parties—that is to say, bodies of men organized to effect great affairs—are necessary for governing men, but also, that they were apt to mistake their present interests for the permanent ones of the country, and that this causes all the confusions. "Parties," he said, "always split upon the rock of confounding particular interests for general interests, while pretending all the time to be actuated by the good of the country and mankind." His "Society of the *Free and Easy*," with their regular twenty-four inquiries at each meeting, and their objective discussions, was Franklin's way of keeping ever fresh among the people the self-criticism, which he knew to be the salt of a nation. It was the same spirit that made him publish his *Almanac* (Poor Richard!); and Bigelow is right in his book on Franklin in supposing that, "had Franklin lived in the Middle Ages, he would have been the founder of a monastic order." These clerical orders were indeed, from the Franciscans to the Jesuits, but institutions got up to carry out the understanding of their founders as to the best means to secure the permanent welfare and highest development of human society. To us, therefore, the thought of Franklin, as the founder of a theological and ascetic school, has no incongruity in it; and we have often reflected on the supposition with pleasure, that if Francis of Assissi, or Dominic de Guzman, were now alive, they would act Franklin's part in America with great success.

Franklin proposed: "*The American Philosophical Society*, to be composed of *virtuosi*, or ingenious men, who are to maintain constant correspondence from the whole country among themselves; and the parent society was to maintain an active intercourse with similar national societies in Europe." The society still exists, and is doing a modest amount of good; much of the work Franklin intended it to do, being now absorbed by the Smithsonian Institute and other more shining public bodies. Franklin believed, near a hundred years ago, that "the first

drudgery of settling colonies, which confines the attention of people to mere necessities, was pretty well over." We think, that if he were to come back to-day, he would admit, that he was oversanguine in his expectations of there being, so soon, philosophic pursuits in America.

Franklin's rule: "never to ask, never to refuse, and never to resign an office," was one of his prudential resolves, and a part of a general policy of his, to serve the public, but to make it pay. He was aware, that a public man must protect himself against popular caprices; that the public delight in thwarting those, who seek office; that they take it as an insult to decline one, and, that sticking to an office, was a good way to let temporary ill-wills pass away.

Franklin's analytical mind perceived the chief cause of public evils to lie in failures to do that in time and well, or as he said: "from previous wisdom," which must sooner or later be done. It will, he said, where it is thus forced, be done in haste and badly. This neglect of "government" at the right moment was in his mind, if the apologue be allowable, the thornbush on which political briars grow. He ever regretted, for that reason, the failure of the Union plan of 1754, which he had prepared and submitted to the Council at Albany, called by the British Governor of New York. He wrote forty years afterwards: "It would have been happy for both sides of the water, if it had been adopted. The Colonies, united, would have been sufficiently strong to defend themselves; there would have been no need of troops from England; of course the subsequent pretence for taxing America, and the bloody contest it occasioned, would have been avoided." In the Council at Albany, where this Union plan was proposed, the Indian six nations were represented, and Franklin submitted also a plan for the organization of the western territories, in which a free and intimate intermingling of the Indians and the Whites was a chief point; and Franklin and the country may well be sorry, that that suggestion has never since been again taken up.

Franklin was singularly free from opinionativeness or doctrinairism, and he shared none of the idiosyncracies upon the executive branch of government, that mars all our Constitutions. The General President he proposed in 1754 was to be appointed and paid for by the king of Great Britain; he was to have a military education and practice, and to possess an absolute veto. In the Convention of 1787 he voted for a strong Executive, and finally accepted the Constitution, "with all its faults, if it had any"—a question he left open. He boldly asserted, that "there is no form of government, that cannot be a blessing to a people, if



well administered; and that governments end in despotism whenever the people are corrupted and need a despotic rule, because they are unfit for any other." He penetrated the fog that made his generation so hopeful of legislative bodies or constitutional Conventions, by pointing out, that "while they were the assembled wisdom, they had in their midst also all the prejudices, passions, and erroneous opinions, as well as the local and selfish motives, of the populations from which they came." He expected no better instrument, was glad it was as good as it was, and his "opposition, being born in the Convention, should die there." Seeing the sun rising higher and higher behind the President's chair, he declared it to be an emblem of the future of America, and that he was then and there satisfied, that it was to be a rising and not a setting sun. Soon afterwards he died; he called it: "going to bed for ever."

The foregoing rapid and imperfect, but as we hope fair, sketch of Franklin's life, carries its own answer to the question: whether American society treated him right? He himself never complained, because when anything went wrong with him, he charged it neither to himself nor to society, but to some erroneous treatment of the special question. He determined from the start, that society should never be long displeased with him; and being a many-sided man he had always several good things to set off against some special fault. The masses were never cold to Franklin; they overlooked his illegitimate children; and did not even get angry at him when his favorite son sided with England and became a pensioner of the Crown. But Washington, Adams, and others of like strict ideas of pure connubial relations, were annoyed by these occurrences, and regarded Franklin any way rather too disingenuous in matters where his personal pecuniary and political success was concerned. They admitted his usefulness, but did not think him the safest model in either morals or politics. The churches found it also difficult to handle his character. He was not sceptic enough to denounce him outright, nor religious enough to recommend him to their sheepfolds. And thus it has come, that Franklin was and is far better appreciated in Europe, especially France, than in America. We think the time is coming when his own country will yet recognize, that Franklin was an advance copy of the future American, and that many of his plans for adult education and mutual culture, will again be taken up, and that they will turn out to be the very thing needed. The coming reformer of the American press will be a renewed Franklin.

## ALEXANDER HAMILTON.

“Powerful souls perceive truth through themselves.”—*Zoroaster*.

THIS first great New-Yorker in our federal Union was a positive, but not, as has been charged, a tendentious partisan. He was among the revolutionary Fathers the only one of recent Scotch descent. His home country had wisely become reconciled to the act of Union with England, and he himself knew the history of that settlement well. He understood it to be a submission to England, but also a liberation from the mean home rule of a haughty nobility. Born in West India, he came to New York as a reward for literary labors, when yet a youth, from Vera Cruz. And when the American Revolution broke out, he entered the service, both as a soldier as well as writer. May (1776) he was elected captain of an artillery company, and he disciplined it so completely, that everybody was astonished, and inquired where he, so young in years (he was but eighteen, and had a boyish look) had attained his military education. *That* ready adaptation to every function was *the* point in his character; he learned everything easy and well. Starting in life as a merchant, he studied political economy and finance in leisure moments, and added to his studies, in New York, jurisprudence, and was then admitted to the bar. Soon Washington discerned his capacities, took him in his staff, and made him his friend and prime councillor.

After the revolution he became an influential personage in the politics of the state of New York, and also in those of the Confederation. The government of the latter was, under the Articles of the Confederation, no government at all in his opinion; it was without an executive head, and had really no administration. He wrote for the public press against it, and corresponded with persons of influence, such as Robert Morris of Pennsylvania, to whom he also proposed the draft of an United States Bank. He was falsely accused of being an enemy of federal institutions, but it is true, that he was opposed to sham federalism, that professed to be for Union, but was in reality for doing nothing but blocking all public efficiency. He had felt, like every soldier, the curse of having affairs controlled by committees, and he wanted Congress to act up to its functions or abdicate. He said: “A Convention might make a Constitution; the States never would.” He wanted the public mind prepared for that step, for he had no faith in any reform, that did not rest on an enlightened

public opinion. We can see here the difference between Franklin and Hamilton. The first would, without stating the necessity of popular instruction, simply go ahead and do it; the latter would do it also, but let that people feel, who it was that educated them.

As to the new government, his mind was clear as a bell from the start. He wanted a distinct prescribed sphere for both the States and the general government. The affairs of "persons and things," and direct taxes for maintaining their officers, &c., should be with the States. The federal government was to have untrammelled power in matters of peace and war, in commerce and in foreign affairs; it was to get its revenues from duties laid on imports, from the sale of lands, supplemented by a real estate or *per capita* tax. Hamilton rejected the proposition to allow the federal government to coerce states by force of arms. In looking forward to the great difficulty that besets those, who have to draft federal institutions, he exclaimed: Happy America, if those who are to watch over thy childhood, understand to provide for thy peace and quietness; unhappy, however, if their negligence or ignorance allows the spirit of discord to plant its banner on the ruins of your peace!

The paper for which he then wrote was the "*Continentalist*," and every article from his pen shows the far-seeing ken of the Scotch-American. They read to-day like prophecy, and it is ever to be regretted, that the new government did not come as *one* cast from a mind like his.

In the constitutional Convention itself, Hamilton could not exercise the influence he deserved. He was not the character to buttonhole or mould his fellow-members; his convictions and temper were too positive for that. To him it was agony, not pleasure, to manipulate men who, jealous of their imaginary dignity, want to be first persuaded to do right, and then to take the credit to themselves. He addressed the Convention seldom; and when he had presented his plan, which was an amendment of the Virginia plan, he withdrew it, feeling certain, that no President or Senate, such as he believed necessary, with a tenure of office, during good behavior, would get the consent of the Convention. Satisfied that, though his own ideas could not be realized, that still the worst features of the Articles of Confederation would fall, he concluded not to embarrass by his presence those, whose works was, if not the compact, definite instrument he wanted, sure to be a vast improvement on its predecessor. He was absent for long periods, and often to the detriment of his own side. He came back, however, at the

close, voted for the new Constitution, and persuaded his New York fellow-members to do the same.

As soon as the Constitution had been sent to Congress he prepared a series of articles for the press, and they were published in the *Federalist*. Madison co-operated with him, and so did Jay. Of eighty-five numbers, fifty-one came from Hamilton, twenty-nine from Madison, four from Jay. After the Constitution was adopted, Hamilton became Secretary of the Treasury, and soon proposed his United States Bank, which, with other issues, led to the formation of the two parties, that have (under several names) existed since. Could Hamilton have been a partisan, in the sense of subordinating his better judgment to the party will, and he might have led the federal party at will; but he was too big and too straightforward a man for taking bye-roads and lanes and alleys for objects, which he believed entitled to open advocacy. He and Adams could also not readily act together, they were too much alike in temper. And when the federal party in 1800, in the contest in the House of Representatives between Jefferson and Burr, sided with the latter, and degraded itself, as both parties have done since, by surrendering their manhood for seeming temporary success, he was outspoken against it, and spoke of Burr, as he was, and called him a dangerous man. This led to the duel at Hoboken, where Hamilton fell. His party, if it can be called *his*, never overcame the loss of him as a leader; it languished till 1824, then died. The shadows of both have perplexed us ever since.

The most serious charge against the American people which the future will make will be: that it did not know, how to employ a genius like Hamilton. He was by all odds the most talented and the best self-disciplined mind of America. He was not appreciated by the masses because he could not flatter; and he was distasteful to many that occupied high positions, because he would not hide from them, that he knew their faults. Washington could love him, because he had no tender points in his character for Hamilton to run against. Madison could counsel with him, for he understood him. But Jefferson and *he* were antipodes as well as rivals in politics, and it was Jefferson's conceptions of Hamilton, that passed into the traditions of the people. Madison knew these conceptions to be errors; he never indorsed them, but neither did he contradict them. Take the worst that has been charged on Hamilton as true, to wit: that he wanted a British government here, minus only the hereditary king and nobility; that he originated schemes for funding floating public debts, by which a few were made



rich at the expense of the many; that he desired to have in America a copy of the Bank of England; that he used public offices as compensation for partisan support; that he was the Walpole of America, and would have had here unclean politics, with the reins in clean hands; and compare it with what is now actually in existence in America, to wit: a British party government, minus statesmen as leaders; a President and Senate elected, say the best of it, by trickery; a country shingled over by public debts, and disgraced by stock gambling and jobbery, in which the mean have all the advantages; a national banking system based on national fluctuating credit, allied to a most stupendous usurpation in the shape of paper money, issued by an unconstitutional legal tender act; a civil service filled by men appointed from parties on considerations; a clean Constitution made crooked by amendments, and administered by unclean politicians; and who does not see the satire there was on the American people in the Hoboken duel, when the astutest statesman was killed by a pistol-shot fired by the hand of the astutest demagogue? Would it have occurred if the people had had the capacity to assign to these two men, Burr and Hamilton, their true position?

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### JOHN ADAMS.

“To accommodate himself to every temper is the business of a wise man.”  
—*Demophilus*.

THIS *New England* patriot never was a full American; but he was the first victim of the American party spirit, that kills without shedding blood. He was too great to be the slave of a party formed by another great man, and too impetuous to be the leader of one of his own improvisation. Upon many subjects he differed from Hamilton, upon more from Jefferson. To Franklin he had a personal dislike. Washington he loved, and made his traducers his own enemies; and they abandoned the hopeless task of injuring Washington, and turned all their venom on Adams. They used against him the usual catch-phrases, and he was inconsiderate enough to furnish them more. On his election he used his inaugural address for reasserting, what no sane man doubted, his devotion to republicanism, which placed him into the defensive, always a weakness.

He spoke of the Declaration of Independence and the war which followed as “launching into an ocean of uncertainty,”

which certainly it was; but, when compared with his well-known letter on that act, and the eternal annual celebration it recommended, it looked like receding from the latter.

He next proceeds to say, that "the zeal and ardor of the people, during the revolutionary war, supplying the place of government, commanded a degree of order, sufficient at least for the temporary preservation of society."

When we read this passage, we could not avoid asking, with all due respect to Mr. Adams: whether he did not mean by it to prophesy a discouraging perpetual characteristic of the American people; to wit: that government would have to be continually supplied by creating occasions for the zeal and ardor of the people? Have not all the party manipulations, from Jefferson to Hayes, had this purpose? Would not Mr. Adams's remark have been truer, if he had said: The passions of the people are great conveniences for governing society? Frederick the Great expressed it still finer: "When passions are kept within proper bounds, they constitute the life and soul of society;" which, read between the lines, means, that a people under a popular passion may, when led by great men, be used for the accomplishment of great objects. The warning necessary as to all such politics, is given by Von Holst thus: "The quickest horse on the road to despotism, is a principle ridden without bridle."

Mr. Adams admits the truth in part, when he says, that the Constitution of the United States "was prepared after the models of the Batavian and Helvetic confederacies;" but he should have added, "as they understood them." That they, including himself, did not understand them fully, is evident from the erroneous after-remark, that "they are the only examples which remain with any detail and precision in history." The trouble was, that with their partialities for English government in their heads, they constituted only a nominal federal government, and even as to it, followed no special model thoroughly.

Mr. Wilson of Pennsylvania once said in the Congress of 1777-78: "The Germanic body is a burlesque on government; and their practice on any point is a sufficient authority and proof, that it is wrong." He only exposed his ignorance of the true inwardness of federal institutions, which are so distasteful to politicians, because with them it is so difficult to govern in the usual way—that of arousing passions and then taking the people well in hand, and driving them to suit the ambitions of those who hold the reins. That old Germany was so hard to govern on this programme, made Wilson dislike its federal law.

Mr. Adams supported the Constitution with alacrity, as soon

as he arrived in the country from his mission to England, and he says of it: "In its general principles and great outlines it was conformable to such a system of government as I had ever most esteemed, and in some states, my own native state in particular, had contributed to establish." We were somewhat taken aback by this passage, but remembering that De Tocqueville says that in Massachusetts and New England generally, "political life had its origin in the townships;" and it may almost be said that each of them originally formed an independent nation. The surprise ceased, and we saw how Mr. Adams could compare the federal Constitution with that of Massachusetts. It was, because, as De Tocqueville again says: "the townships did not receive their powers from the central authority; on the contrary, they gave up a portion of their independence to the state." Had Mr. Adams examined German history, and he would have saved himself the blunder of expressing esteem for the United States Constitution, because it was conformable to the system of government in his native state, Massachusetts; and, at the same time, casting a fling at Germany because it has small sovereignties, "where a courier may go from the seat of government to the frontier in a single day." We who live in railroad times (not to speak of telegraphs) don't see, that quickness of traverse makes a state less fit for good government. On the contrary, we understand the excellence of federal institutions to consist in the fact, that pre-existing public authorities constitute them with great care, and afterwards watch and check them. An impatient people like the French are fretful under federal rule, and they will abolish them, upon the pretence that it keeps them from doing right. Had they patience to have federalism, and it would keep them from many *faux pas*.

*John Adams*—and his posterity after him—have had the misfortune to live amidst a people, that had *their* faults without *their* virtues, and who could therefore never forgive them for being just, as well as patriotic. When John Adams defended a British soldier against a Boston mob, he inaugurated the indifference of the New England populations to his and others' public careers, when they are for the right in all their integrity. They left Adams without that warm support, which alone could make him successful. It overtook him at the most critical portion of his life, the presidential election of 1800, and sent him to a retiracy, as distasteful to him as it was injurious to the country; for it left a void in the public councils, which no other man could fill. The Adams family should ever have lived in the south, for there they might have been appreciated. They never could be the statesmen of the state

of Massachusetts. John Adams was not a wise man in the sense of being cautious in the midst of slippery politicians, for he could not, at least did not, accommodate himself to other persons' temper. The people feared him, and he feared the people, because neither would forbear with the other. He was the only President, who saw clearly that an efficient administration without a Constitution is better than the best Constitution without an effective administration. In that he crossed the popular mind even more, than in defending the British soldier; for, of all things distasteful to Anglo-Americans, the most obnoxious thing is the axiom: that a rigidly-disciplined and regularly-corrected public service is necessary to a good republican government. Where would be the great vocation of the people and their leaders, if there were nothing to complain of in the public administrations? How could the *ins* be made the *outs*, if public business were always properly conducted? On what should our demagogues discourse? What would our party editor write about? Would not our politics be either like the Biblical whale without a Jonah, or a Jonah without a whale? Adams was never thanked for introducing his many administrative reforms; indeed the American people never knew him as a reformer, and they will perhaps get angry at us for reminding them of the fact, that he was such. Well, let it pass, and chalk down Adams as sufferer No. 3 from popular inability to appreciate independent minds.

Mr. Adams is entirely right in saying: "The existence of such a government as ours, for any length of time, is a full proof of a general dissemination of knowledge and virtue throughout the whole body of the people." But will it do to assume this from a mere *nominal* existence? The government, he spoke of, had then been eight years in operation. It had then already received *eleven* amendatory articles of the first Constitution. It has at the present writing existed eighty-eight years, and been radically changed, as well as set aside. The questions Adams asked in 1796 are questions yet: "Is there still respectful attention paid to the Constitutions of the individual states? Is there still a constant caution and delicacy towards the state governments? Is there still an equal and impartial regard to the rights, interests, honor, and happiness of all the states in the Union, without preference or regard to a northern or southern, an eastern or western position, their various political opinions on unessential points, or their personal attachments? Is there still a love of virtuous men of all parties and denominations? Are we still free from the natural enemies of our Constitution, the spirit of sophistry, the



spirit of party, the spirit of intrigue, the profligacy of corruption?" Who can answer affirmatively to these questions? And yet Mr. Adams, regarding these as the essentials of our federal institutions, could write the above words, as if these virtues were in existence. We think Mr. Adams, were he alive, would not again say so; for he could not, even if he lit his lamp in daylight, as old Diogenes, find them in operation.

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### THOMAS JEFFERSON.

"Men ever have been cold in their gratitude and ardent in their revenge."—  
C. C. Colton.

THE author of the Declaration of Independence, and the Ordinance of 1787, is about to pass through an ordeal before posterity, that is not pleasant to contemplate, for his disciples. His talents, his political principles, and his integrity are being questioned. Let us see, whether we cannot disentangle the misunderstandings of his character, and assign him his true place in history.

He began public life as a reformer of the Government of Virginia; he ended it as the *retired* leader of the federal political school which he had founded. As the first, he was for all the social and political reforms, which the higher intellects of his time advocated, that is to say, he was anti-church, anti-monarchy, anti-slavery, and anti-popular stupidity. He carried these tendencies with him into federal or national politics after he had abandoned "state reforms" to others. He should have kept his mind well nurtured, so as to have made him always a safe state as well as United States reformer. Then he would have perfected the social relations in his state, as well as the political affairs of the federal government, and not have left to posterity the enigma: how so great and sweet a character could hand to posterity so many unsolved issues, when his contemporaries believed he had solved them all. He forgot the wise rule of William von Humboldt: A man must be the statesman of his state to be the statesman of a federal Union.

The following extracts from "Letters of Lord Macaulay" will show, what charges we have to meet as to Jefferson's fame. The extracts concern us here only as to that, and much as we are tempted to discuss some of the general issues presented as to democratic institutions, we will confine ourselves to the personal points of our immediate subject. We may and must say, however, that much as we admire in the main Macaulay's style of treating political questions, and approve generally the basis

of his opinions, yet we fear, that, like all British statesmen, he is too much wedded to the idea, that government is only safe when social wealth is clothed with political power. He dreads too much the swallowing up of riches by the masses, which is indeed a danger in democracies; but he fears too little the swallowing up of wealth as fast as it is produced by those possessing the soil and the capital of the country in large lumps. Thomas Jefferson had after all the truer equanimity on this point, and held a fairer scale.

Macaulay wrote:—

“There can, I apprehend, be no doubt that your institutions have, during the whole of the nineteenth century, been constantly becoming more Jeffersonian and less Washingtonian. It is surely strange that, while this process has been going on, Washington should have been exalted into a god and Jefferson degraded into a demon. . . .

“I have long been convinced that institutions purely democratic must, sooner or later, destroy liberty or civilization, or both. In Europe, where the population is dense, the effect of such institutions would be almost instantaneous. What happened lately in France is an example. In 1849 a pure democracy was established there. During a short time there was reason to expect a general spoliation, a national bankruptcy, a new partition of the soil, a maximum of prices, a ruinous load of taxation laid on the rich for the purpose of supporting the poor in idleness. Such a system would, in twenty years, have made France as poor and barbarous as the France of the Carolingians. Happily the danger was averted; and now there is a despotism, a silent tribune, an enslaved press. Liberty is gone, but civilization has been saved. I have not the smallest doubt that, if we had a purely democratic government here, the effect would be the same. Either the poor would plunder the rich, and civilization would perish, or order and prosperity would be saved by a strong military government, and liberty would perish. You may think that your country enjoys an exemption from these evils. I will frankly own to you that I am of a very different opinion. Your fate I believe to be certain, though it is deferred by a physical cause. As long as you have a boundless extent of fertile and unoccupied land, your laboring population will be far more at ease than the laboring population of the Old World, and while that is the case the Jefferson politics may continue to exist without causing any fatal calamity. But the time will come when New England will be as thickly peopled as Old England. Wages will be as low, and will fluctuate as much with you as with us. You will have your

Manchesters and Birminghams, and in those Manchesters and Birminghams hundreds of thousands of artisans will assuredly be sometimes out of work. Then your institutions will be fairly brought to the test. Distress everywhere makes the laborer mutinous and discontented, and inclines him to listen with eagerness to agitators who tell him that it is a monstrous iniquity that one man should have a million, while another cannot get a full meal. In bad years there is plenty of grumbling here, and sometimes a little rioting. But it matters little, for here the sufferers are not the rulers. The supreme power is in the hands of a class, numerous indeed, but select; of an educated class; of a class which is, and knows itself to be, deeply interested in the security of property and the maintenance of order. Accordingly, the malcontents are firmly yet gently restrained. The bad time is got over without robbing the wealthy to relieve the indigent. The springs of national prosperity soon begin to flow again, work is plentiful, wages rise, and all is tranquillity and cheerfulness. I have seen England pass three or four times through such critical seasons as I have described. Through such seasons the United States will have to pass in the course of the next century, if not of this. How will you pass through them? I heartily wish you a good deliverance. But my reason and my wishes are at war, and I cannot help foreboding the worst. It is quite plain that your government will never be able to restrain a distressed and discontented majority. For with you the majority is the government, and has the rich, who are always a minority, absolutely at its mercy. The day will come when in the state of New York a multitude of people, none of whom has had more than half a breakfast, or expects to have more than half a dinner, will choose a legislature. Is it possible to doubt what sort of a legislature will be chosen? On one side is a statesman preaching patience, respect for vested rights, strict observance of public faith. On the other is a demagogue ranting about the tyranny of capitalists and usurers, and asking why anybody should be permitted to drink champagne and to ride in a carriage, while thousands of honest folks are in want of necessities. Which of the two candidates is likely to be preferred by a working-man who hears his children cry for more bread? I seriously apprehend that you will, in some such season of adversity as I have described, do things which will prevent prosperity from returning; that you will act like people who should in a year of scarcity devour all the seed-corn, and thus make the next a year not of scarcity, but of absolute famine. There will be, I fear, spoliation. The spoliation will

increase the distress. The distress will produce fresh spoliation. There is nothing to stop you. Your Constitution is all sail and no anchor. As I said before, when a society has entered on this downward progress, either civilization or liberty must perish. Either some Cæsar or Napoleon will seize the reins of government with a strong hand, or your Republic will be as fearfully plundered and laid waste by barbarians in the twentieth century as the Roman Empire was in the fifth, with this difference, that the Huns and Vandals who ravaged the Roman Empire came from without, and that your Huns and Vandals will have been engendered within your own country, by your own institutions. Thinking thus, of course I cannot reckon Jefferson among the benefactors of mankind."

Our first duty, as to the foregoing extracts, is to correct a few misstatements. It is not true that America has Jeffersonian "institutions." Jefferson founded no institutions, except Virginia University. He may be charged with originating a political party or school, but as he provided for it no academic organisms, it has never had a definite character, nor attained a definite policy. His reforms and those of his school were confused, and they often confounded public judgment. The Ordinance of 1787, his greatest work, disproves Macaulay's assertion: that Jefferson wanted a purely democratic government. Indeed it is queer that Macaulay did not see in Jefferson a person like himself, only Jefferson was at work in America.

Mr. Jefferson does not and will not stand as a "*demon*" before intelligent public opinion. All that can justly be said of him, is: that his intermingling (in the Declaration of Independence, and in his messages and letters) social questions with issues drawn from international law, have laid the foundation for the use of those state papers for partisan objects, which were actually abhorrent to his mind. He never was for a democratic federalism, such as Macaulay lays to his charge. Chase, Seward, and Douglas must be chiefly held responsible for bringing on the country the perils against which Macaulay warns. It is also a fundamental misconception, that either Washington or Jefferson are the fathers of any distinct government policy as to domestic institutions, or social or political relations. They may be accused, justly, of some indifference to this subject,—Jefferson perhaps least. It was New England that kept her eye on local governments and its effective public administrations, and they were almost purely democratic; while in the south there was so little need of government, so that they really had no public administration. But *these* last were the very conditions, which Macaulay eulo-



gizes, to wit: "The supreme power was in the hands of a class, numerous indeed, but select; of an educated class; of a class, which was, and knew itself to be, deeply interested in the security of property and the maintenance of order." Who does not see, that Macaulay shares with most of his countrymen, the common misunderstandings of our institutions and their history?

Federal institutions are complex, and they present many perplexities to statesmen, politicians, and jurists; but most to those, whose jurisprudence treats only of relations of citizens to the state, its society, and to each other; because in federal governments and the administration of their affairs the relations of the respective public authorities is ever the crucial point. It may, yea it does, often occur that the best conductors of simple civic institutions are very poor managers of federal unions, whilst excellent head-leaders in federal governments are inefficient magistrates in municipal matters. Rulers in federal unions must, beside being good jurists, statesmen, and politicians, be also competent diplomatists, that is to say, they must understand how to co-operate for great purposes with co-eval and co-ordinate authorities. They must be great and good both to their states and to the nation. The latter offers a wide field, great renown, with comparatively easy work; the former, great drudgery, intricate details, and personal disfavor. And yet the fame acquired in rectifying the affairs of small states is more enduring, grander, and more deserved. The little states have done all the great deeds that were good. Jefferson as legislator, councillor, and governor of Virginia is to us a more appreciable man than Jefferson the ambassador, the Secretary of State, Vice-President and President of the United States. His best acts on the national stage are those in which he was the delegate of Virginia, viz: in drafting the Declaration of Independence, and the Ordinance of 1787. We confess, that in our opinion Virginia would have had a model government, if from 1769 to 1820 her Constitution, laws, and government had been shaped by the advice of Jefferson, in such a way that he had felt himself responsible for it, because proper power was intrusted to him. He wanted a Virginia with slavery abolished (prospectively); with the best educationary institutions in the land, with enlightened churches, with effective administrations, with fair taxation and assessments, and good finances generally; and it, if accomplished, would have been a prouder monument to Jefferson, than all his acts on the national stage. Indeed, all the flaws in his character are as to federal politics. It is true, that Jefferson never lost, as entirely as Adams, his affiliations with his state;

but he did not keep his mind as thoroughly on the social questions of Virginia as he did in early life, and therefore was not as much a reformer as he might have been. Many a statesman has been misdirected by the constant withdrawal of the better material from its municipal affairs, and tempting all public men into federal employment.

When will states-rights men learn, that their political force is strictly commensurate to the effectiveness, which they can impart to their state governments; and in promoting and establishing the permanent welfare of its state society? The northern states have not the best governments they ought to have, but they were and are better than those of the south. And, of the northern states, Massachusetts has again the best; because she has kept some statesmen at home. When Jefferson, almost despairing of the federal government, said to Madison and Judge Nicholas: "We must go to the States!" he spoke a wise maxim, without being fully conscious of its import; and if, instead of writing resolutions into the sands of partisan politics, he and they had organized Virginia, as Hardenberg and Stein did Prussia, and the names they gave to Virginia—"Mother of states," and "Mother of statesmen"—would not now be an empty sound. On the contrary, as around reformed Prussia now gathers a new Germany, so around Virginia would now gather the body of the nation, if Virginia had been wisely ruled. In Italy, Lombardy won the whole peninsula in the same manner; and the lesson will yet be repeated on the territories, now called Turkey. Jefferson had the talents, the education, the temper, and the bend of mind for being to America its best constitutor. He had sloughed off, like no other American known to us, the religious prejudices of English churches; he was cosmopolitan in his political thoughts, was a jurist rather than a lawyer, and had the capacity to inspire a whole people by his writings. He had, besides, able coadjutors in Wythe, Mason, Pendleton, Madison, and Monroe; and doubtless Virginia would have sustained him long and well, if he had devoted himself to her improvements.

Goethe's "Faust" brings out this paradox in human affairs, by describing certain forces as those "that ever will evil and ever do good;" but it waits the hand of some great dramatist to bring out in American politics another anomaly, that of so many of our public men, who, anxious to do good, are yet ever producing evil. It arises, in our opinion, from a failure to comprehend fully, that federal institutions have the disadvantage, that besides deciding whether a thing is proper to be done at all, it must at the same time determine which public authority shall attend to

it. Not to do a proper thing at all, because the power of this or that public organ is disputed, is egregious folly. It has blurred the fame of the best statesmen of America. Surely America has in her various governments every power that any government can or ought to have. There must then be more or less appropriateness in each of our bodies-politic for particular functions. Is it then so irksome to find this appropriateness? The Constitution allows even contracts between states for specific taxation, and specific tonnage duties, with the consent of Congress. Jefferson's mind was too practical not to know this. Whence, then, his state-right jealousy? It was means to ends, not ends in itself. Jefferson saw a tendency in the administration averse to himself personally, and to his most cherished desires to place America in the vanguard of political progress. He used states-rights to oust his adversaries from power; and perhaps properly. But when it was done, the states should themselves have been reformed in accordance with Jefferson's enlarged ideas.

In his second Inaugural, when speaking of the Indians, he uses this remarkable language, which we must quote again:—

“These persons inculcate a sanctimonious reverence for the customs of their ancestors; that whatsoever they did, must be done through all time; that reason is a false guide, and to advance under its counsel, in their physical, moral, or political condition, is perilous innovation; that their duty is to remain as the Creator made them, ignorance being safety, and knowledge full of danger. In short, my friends, among them also is seen the action and counteraction of good sense and bigotry. They too have their anti-philosophists, who find an interest in keeping things in their present state, who dread reformation, and exert all their faculties to maintain the ascendancy of habit over the duty of improving our reason and obeying its mandates.” And this passage is preceded by the words: “They feel themselves something in the present order of things, and fear to become nothing in any other.”

It seems to us, as if Thomas Jefferson was whipping somebody over the backs of the Indians and their chiefs by this passage. It would, were the sentences framed affirmatively, be an excellent exordium for a governor's message, and hit many more white people than Indians. Let us try it!

It would then read:—

“A sanctimonious reverence for the customs of ancestors impedes progress; what they did, need not be done for all time; reason is the true guide, and to advance under its counsel is useful in all physical, moral, and political conditions; our duty

is not to remain as the Creator made us, but to enhance our existence; knowledge being safety, ignorance full of dangers. In short, my friends, good sense must act upon and counteract bigotry. Mistrust anti-philosophists, for they find their interests in keeping things in their present state; they dread reformation, and exert all their faculties to maintain the ascendancy of habit over the duty of improving our reason and obeying its mandates. Beware of public men, who feel themselves something in the present order of things, and fear to become nothing in any other!"

We have here a whole code for the self-regulation of the political conduct of states. Addressed by a governor to the people of his state, and by them adopted, and how soon would happen, what Jefferson expressly desired, viz: "that one state after another would wheel into line, and America would again be the foreground of civilization."

Mr. Jefferson has suffered, like all founders of schools and creeds; his words have been twisted, misapplied, and perverted. That he is entirely blameless we cannot assert, but that he has come nearer than any other public man, to be a good federalist and yet also a good laborer for his state, we affirm. His great error was, that he founded a party, that he gave it permanency by making it the custodian of political power, and gave it tenets, for whose correction, as well as adjustment to events and progressive knowledge, there was as little provision, as in the institutions of Moses for the prophets, which he himself knew and declared to be necessary. But when we have said that, we must immediately add, that we have been charmed in re-reading his letters and state papers, by their lucid style, their ardent love of liberty, and their broad patriotism. To be an American needed, in his view, no Anglican ancestry, not even birth in this country; he required no loyalty to any dynasty or church or party to be a patriot, he dispensed even with the Roman *pro aris et focis*. He regarded all as his fellow-citizens, who loved freedom and hated despotism. Yet with all his cosmopolitanism he was much of a Virginian; and we do not blame him for it, but wish he had been more so in the highest sense.

In saying at the beginning of this notice, that Mr. Jefferson was passing through an ordeal before posterity, we acquit the age in which he lived of any injustice to him; indeed, we concede the inference, that he was esteemed higher than he deserved. We hardly wish, however, to be so understood. What we can and do say, is: that Jefferson was the most fully valued public man in America, and that, as to him alone, the admiration



accorded to him by his generation will be questioned. If, therefore, the issue were joined, as we put it in these personal notices, to wit: whether society was just to Jefferson? it would have to be answered in the affirmative. He was never hindered in doing all the good there was in him to his country; on the contrary, he was given full opportunity to display his talents. And if there has been any drawback since, it was the result of no popular predisposition to degrade him, but of events that cast a doubt on some of his acts. He elevated the people, they him, and in neither was there any reaction while he was alive. We think his memory will remain green and fresh with the body of the American people, and that, in spite of cavillings at some of his failings, posterity will ever have cause to study his writings and to follow his teachings, always, however: *cum grano salis*.

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### JAMES MADISON.

“Virtue consists in a life of activity.”—*Zeno*.

WHEN this statesman became President of the United States in 1809, the executive branch of the government had received a compact, but far from perfect organization. The country was still in the institutional mood. It wanted itself governed by political institutions and ideas, through representative men and eminent politicians, and cared but little for practical administrators and executive-organizing talent; indeed, we feel justified in saying, that in America, as in England, it was then presumed, that the one implied the other. This was and is still our great mistake, and Madison was not the man to correct public sentiment on this subject. John Adams would, had he been re-elected, have perfected the administrative organization, which he had begun so well, being from nature and habit an organizer and disciplinarian. But Mr. Madison had not that turn of mind; he cared less for political orthodoxy than Mr. Jefferson, nor was he as tenacious of tenets as his predecessor, but he was a party leader like him, though he would, had that appeared to him possible, have preferred to have been President in the best sense. He continued really in the path worked out for him by Jefferson, but that can hardly be said to have been a policy of his own.

In his Inaugural he speaks of “his path being lighted by examples of illustrious services rendered by his predecessors,” and he mentions as “the source of the aid which is to supply his

deficiencies, the well-tried intelligence and virtue of his fellow-citizens, and the councils of those representing them in the other departments associated in the care of national interests."

In the Convention of 1787 he had acted with the "nationals," though he kept on friendly relations with the friends of strictly federal institutions. Jefferson drew him over to, what were called: the Republicans; but the co-operation with Hamilton in the publication of "The Federalist" left a warm side in his heart to that statesman. Whether, if Hamilton had been alive, when Madison was President, there would ever have been a full reconciliation and then an influence on him through Hamilton, is of course conjecture, but this much is certain, Madison had a leaning away from Jefferson as well as one to him. It was only Madison's yielding disposition, in the absence of another strong mind, that made him step so closely in the footsteps of Jefferson. He felt grateful to him for much assistance received from him in his great desire for literary culture; but still more for having been made his Secretary of State, and thereby, as Jefferson intended it, to be indicated to the country as the successor.

Madison was made Secretary of State by Jefferson more because he wished to indicate him as his successor, than on account of any special fitness for the position. Madison was the first prominent person that could belong to a school without avowing devotion to its extremer doctrines; indeed he was allowed to disavow and to counteract them, because he understood how to do it without giving offence. His great usefulness as legislator in Virginia, and as a member of the constitutional Convention of 1787, was that he mediated between the extremists, and harmonized persons and things seemingly irreconcilable. A large number of public men, who were undecided in their views, gradually got into the habit of looking to Madison as the indicator how far it was safe to go, and this gave the side he took the preponderance. Now Madison was a sincere republican, and more the disciple of Jefferson than of anybody else, but he was neither a blind nor an out and out follower. In fact, he was not a consistent partisan by the standard of our day. Jefferson needed *him*, but *he* also needed Jefferson, and without co-operation both would have failed in their careers. It was necessary to Madison to have Jefferson's indorsement, for without it he could not have had the cordial support of the republicans, while, on the other hand, Madison's support of Jefferson held back much opposition, which the more conservative of the land, especially in Virginia, felt strongly inclined to make to the latter.

We must *analyze* Madison's conduct on the Resolutions of

'98; on the war policy of Jefferson against Great Britain; the terms of peace he accepted after the war of 1812; his signature to the United States Bank Act, 1816; his acquiescence in the tariff of 1816; and his policy as to appointments, to comprehend Madison's real relation to American politics. Read the Kentucky Resolutions prepared by Jefferson, then Madison's report thereon, then the issues upon which the campaign of 1800 was fought, by Jefferson and Madison, against Adams and Hamilton, and it will appear plainly, that in Madison we have the prototype of the many American politicians, who ostensibly are members of a party; but have in their breasts views of their own, which, when they are placed in power, makes them rasp off the sharper points of their school, and to bring it within the great necessities of the nation, or, as some would say: the logic of events. Mr. Jefferson's acquiescence in the toning down of the Resolutions of Kentucky, his placing Madison at the head of his administration and making him his successor, as well as his friendship for him to the end, is hardly explainable, except by understanding the necessity Madison was to him and his school as a mediator. It was not until 1832, after Jackson's purpose to revive the old Jeffersonian school in its pristine objects had fully developed, that the difference of Madison's actions, with them, became fully manifest. They troubled Jackson and his friends severely.

Jefferson's method of indicating his successor was continued by Madison, and Monroe, who, having been Madison's Secretary of State, became the President 1817-25. The system, if such it can be called, then broke down under the rivalries between Crawford, Adams, Clay, Jackson, Clinton, and Calhoun. New men, new ways, and a new people seemed to have come upon the political stage; but we think, that there was nothing more than old things gone to seed.

Had the people not been party blinded and they might have seen in the treaty of peace that closed the war of 1812;—the second United States bank,—the tariff of 1816,—the entry of federalists in the public service as members of the party in power,—that something entirely different from the public partisan representations was going on beneath the surface; that public questions were raised, agitated, and then dropped again from party considerations, and that this party work injured the country's dearest interests. This necessitated measures for public relief; but as the party in power could not allow *that* to be done, which would have eradicated the evil, there was no other remedy except to do patchwork, and thus cover the fissures which party work made in public affairs. The treaty of

peace was such a patch ; it was to heal the rents caused by the Hartford Convention. The United States bank was another ; it was to cure the vicious paper currency issued during the war. The tariff was the third ; it was to remedy the disordered finances. A fourth was the permission of federalists to hold office under republican administrations, provided they changed nominally their politics. The last was the greatest necessity of all, because proscribing one-half of the material, fit for office, as a party principle, and the other half in obedience to the tricksters of the party in power, had then, as it ever will, tattered and torn the habiliments of the administration, and they pled for coverings over their nakedness.<sup>1</sup> Madison was a good mender, indeed, we may say, he was the first and best President in that line ; and he could not have been this if he had been the partisan bigot, which those who voted for him meant him to be, and his opponents so much feared.

Patching and mending public clothes, torn by carrying party shibboleths to ultimatums, has since been again and again the main work of our Presidents. Madison did it well, and the people stood it well, though there were some growlers. The Hartford Convention chagrined Madison the most, for the rent it made looked like the logical result of the Resolutions of '98 ; the very resolutions which he believed to have made harmless, by precluding the states-veto against "measures warranted by the Constitution." Surely, thought he : a war with a foreign power, and that power England, must be constitutional ; and to oppose it, even if goaded to it by party and sectional prescription, must be *treason* ! And when the Convention added opposition to western and south-western acquisitions of territory, and revived the anti-alien animosities ; was it not point blank proof, that New England was not American in the full sense ? What say you then, you American people ? Had we not better rally round our party and sing the chorus : Let us have peace !

But the war had, as all wars do, laid its eggs for future political troubles. The finances of the country had been conducted on state-banks' currency, and ended in pecuniary chaos, just as was the case through the paper money issues by the Colonies in the seventeenth and eighteenth centuries for their wars, and as occurred with the continental money issued during the Revolution. Madison, after declining a re-charter of Hamilton's bank, yielded soon afterwards to the charter of a United States bank, for the purpose of bringing order out of that chaos. The tariff of 1816 was adopted

<sup>1</sup> Jefferson once wrote to Madison, May 1812 : "It enlarges the sphere of choice by adding to it a strong federalist."



as relief to the finances, and it is not stretching conjecture too far, to say, that Hamilton, could he then have been made to speak, through a spiritual medium, would have exclaimed: You have, after all your opposition, adopted my ideas!

Madison lived long enough (he died June 28, 1836) to learn how different he stood before posterity, than he did before his contemporaries. Jackson's administrations had redrawn the party lines pretty much as they used to be run against John Adams and during the first ten years of this century. They certainly did not please Madison, as Jackson run them, except his opposition to nullification. Had he (Madison) forgotten the old doctrines? Had he changed? Was there another people or another Constitution? No! Madison was the same, his perceptions had only become clearer, and he saw that extreme party views were never correct, and that great public necessities have to override them. He remembered what Jefferson had written to him when about to assume the Presidency—March 17, 1809: "I know no government, which would be so embarrassing in war as ours. This would proceed very much from the lying and licentious character of our papers; but much, also, from the wonderful credulity of the members of Congress in the floating lies of the day. And in this no experience seems to correct them." He could still affirm *these* words in 1832-36; and was, no doubt, glad that since 1817 he stood free from the source of these lies and these credulities, party trammels. He had to experience that party interests were the bad impregnations of American politics, and that they prevailed against his best advice. How strange he must have felt in the new atmosphere! After Jefferson and Adams had died, July 4, 1826, and Monroe on the same day in 1831, and Marshall, July 6, 1834, he had no one to commune with, that could like himself have recalled from their own memory, as a participant, the Revolution, the Convention of 1787, the Resolutions of '98, the campaign of 1800, Aaron Burr's revolt, the war of 1812, and the new ambitions of Clay, Calhoun, De Witt Clinton, and Webster; and, later, those of Van Buren, Harrison, Cass, &c. He has, so far as we know, taken his final judgment to his grave, but a friend suggests, that had he spoken, he would have said: "Two things are difficult in America—first: to be true to the country, and yet be the leader of a party; second: for the people to understand a public man, who, to do his country any good at all, has to work with a party and yet avoid its extremists." We accept this as a fair deduction from Madison's life.

## CHAPTER XXIX.

*THE EQUIVOCAL PERIOD AND ITS MEN.*

"A people either elated by pride or soured by discontent, are seldom qualified to form a just estimate of the situation."—*Gibbon*.

THE use and abuse of parties has been fully, perhaps over-fully, discussed in these pages; and the blame, for their erection in the Government of the United States, has been ascribed to the defective (really senseless) transfer of British political habits to our politics. We have also seen how these first parties were dying out; the one in consequence of the death of Hamilton, the other because Jefferson and Madison, as well as Monroe, were at heart ashamed of the partisan spirit, whose leaders they were. Jefferson had, in fact, given the watch-word for allaying it by his remark: "We are all republicans; we are all federalists;" to which a wit had replied, that it would have been truer to have said: "None of us are really republicans or federalists." Be this as it may, one thing was certain, that party divisions had become almost obliterated by 1820, and that they would have disappeared by 1824, if the people had been up to the situation, and had understood and carried out the main duty of popular rule, that of neither tempting nor suppressing, but *curbing* personal ambition.

Whether pride or discontent made the people put a false estimate on the actual situation, we need not stop to inquire; we may assume, that both distempers prevailed, and both without real cause—pride, however, most. The financial and moneyed disorders consequent on the wrong fiscal conduct of the war of 1812, were by that time more than overbalanced by the general prosperity enjoyed by society. It was much beyond the industry, skill, and economy of the population. This prosperity made the people unduly proud, though the pecuniary difficulties did not justify the discontent that existed; for they could easily have been rectified. Under these circumstances there were all kinds of temptations for the small

politicians to raise fictitious issues, and to agitate them; if only for popular pastime, or to constitute the people into a debating society.

The great men (the little ones' names are happily forgotten) who were to play the leading parts, in this pantomime, were: Adams, Crawford, Clay, Jackson, Calhoun, and Clinton. They yielded to this frivolous tendency reluctantly; for their inner sense told them, that their real function and use was to carry out the actual necessities of society; but it was otherwise with the little men, the demagogues. Their instincts told them, that the readiest road to *their* success, and to the spoils, was through issues easily invented and handy for plausible arguments. And the fact, that the lower spoils-men and second-rate politicians got the reins of politics, from that time forward, more and more into their hands, and that they really run the higher characters, constitutes the guilt of the then existing *equivocal* attitude of parties and their leaders.

It was a political chase in which the dogs commanded the hunters; and they were continually misled by the false scents of both the pointers and setters. Positive issues and concrete questions were tabooed, and plausible negatives substituted for them; such, for instance, as: No President shall be taken from the supreme bench! Congress shall not nominate the candidates! The President shall not indicate his successor! Nor shall there be any other similar, so-called, "safe precedents"! No man under forty-five shall be President! These negatives cut off all but Jackson. For him a further negative was loudly proclaimed; to wit: no military chieftain shall be President. Such negative politics are very convenient to demagogues; each of them can have his own popgun, and for answer, to every affirmative proposition, he fires off his negative sophistry. They served, however, for the gathering of coteries, preparatory to the formation of standing parties out of them, or, if the reader prefers the metaphor, we may say: they were the recruiting bureaus for the bigger political armies hereafter.

To us, all these negative politics amount to nothing but proof: how completely false public opinion then was as to its duty towards its great men. We have read a large mass of the periodical literature of the day, and can truly say, that we never met with a single statement of the true positive qualifications necessary for President.

At fault as to qualifications, the demagogues suggested that the candidates should be interrogated as to their opinions on this or that point; the object being to uptrip the candidate

addressed. The game failed in its principal object—to make Jackson impossible—because he answered (Scripture fashion) that if he thought his right hand knew his purposes, he would cut it off and throw it into the fire, because he believed, that true statesmen did not let their left hand know, what their right hand doeth. The country may be glad, that, by this reply, much nonsense in the heads of candidates, as well as in the minds of the smaller demagogues, remained unwritten.

“Measures, not men,” was the phrase that tickled then, and since, the popular ear. But (suggested experience): Who is to initiate, draft, advocate, and perfect the measures? Does it not require men, either singly or on commissions, to do that? Would not, without them, the popular mind be a perpetual vacuum and action, or at best a fishing in turgid waters?

Nonplussed by these suggestions, the public mind was adroitly directed back to the fiction, on which the campaign of 1800 was fought:—that there were two innate dispositions in men; one for the equal rights of the people, the other for privileged aristocracies; and that, on the Biblical idea of a division of the sheep and the goats, there should be a party that would gather the friends of popular institutions together against the others.

The personal qualifications of men for this or that public position sunk into insignificance under this new dispensation; but their opinions and inclinations became of transcendent importance. We know now, that all this was tomfoolery, and that it set aside the main question, viz: the personal integrity of the public man about to be put into power. It was, however, successfully used to keep the people from seeing, that *all* the men named were qualified, and that there was really no cause for the bitter strife, which designing men were so anxious to get up and to fan into a conflagration. The masses were so tempered, that they must have idols for adoration on the one side, and objects of hate on the other, so as to animate them. And two opposing parties answered this purpose best in America.

Crawford's nomination, in 1824, by Congress, was irregular by the standard of previous party usage, because, though adopted by the House of Representatives, he had not been indicated by the President in the usual way, by making him Secretary of State, and lacked therefore one, and certainly the higher element of the party's collective or conjunctive public will. The “safe precedent” inaugurated by Jefferson and followed by Madison, was therefore really and, let us add, fatally set aside. Soon, after the canvass opened, this inherent difficulty became apparent to all; for Adams, Jackson, and Clay remained candi-



dates, whilst Clinton and Calhoun expressed their willingness to be content with the Vice-Presidency. Crawford's illness tended also to disorganize his supporters, and to keep the others in the field.

Neither candidate received a majority of the electoral votes, and the election went to the House, where Adams was elected by the assistance of Henry Clay, who was afterwards appointed Secretary of State by Adams, which gave rise to all kinds of surmises. The charge of "bargain and sale," "corruption," "the union of the blackleg and the puritan," "concealed federalism," &c., &c., resounded over hill and dale. Some even spoke of Adams as "*Prince*." All these war-cries had received double force by Henry Clay's indiscreet (to say no more) remark against Jackson: "Rather war, famine, and pestilence, than a military chieftain!" This, thrown into the face of men like Benton, Felix Grundy, Martin Van Buren, Silas Wright, Blair, and Amos Kendall, stimulated them to unwonted exertions for the next election, and in 1828 Jackson triumphed by a large majority. He was re-elected in 1832, and was followed by Van Buren in 1836.

Nobody proposed, after the election of 1824, to return to congressional nominations. Jackson was elected as a party-free candidate. But he was no sooner elected, than the succession became the point of rivalry, which shows, that there was still a latent and tacit recognition of the wisdom of perhaps the oldest political rule, that "chief Executives are the best judges of the capacities necessary for their successors."

Calhoun and Van Buren were the rivals for Jackson's favor, and when the national Jackson Convention of 1832 nominated Van Buren for Vice-President, it was understood to be a ratification of the President's preference, and a rebuke of Calhoun. This and the events, that followed, led to the first triumvirate in America—that of Clay, Webster, and Calhoun. But—mark it!—it was not, as in Rome, a merger of great men, for rendering the respective factions impotent; but an alliance for the formation of an opposition party similar to those frequently arranged in England for the overthrow of a ministry. It made the struggle of the superior men of the country against those of a lower order, a fight within each party, which was sure to go against the first named, because it divided those, who should have united for the common good; and abandoned them to the necessarily mean elements of each party.

Jackson saw early that his administration would be overwhelmed, unless he concentrated in aid of it some strong element; and it could be no other than the aspirants for office.

So he put down an anchor to the windward, and wrote: "The patronage of the federal government has come in conflict with elections, and the due course of appointments has been disturbed. Office has been continued in unfaithful and incompetent hands." He suggested, that there should be "rotation in office;" which his followers at once understood to mean, that Jackson's opponents should be turned out, and his friends put into their places; and the "Hickory Broom" became now, as a matter of course, the emblem of the party.

Jackson followed his policy up by saying: "No one man has any more intrinsic right to official station than another. No individual wrong is done by removal, since neither appointment to, nor continuance in office is a matter of right. When rotation shall be the leading principle in the republican creed, it will give healthful action to the system." Thomas Ewing, a prominent Whig, declared in reply to this: "The true question is the restriction or extension of executive power; its encroachments, open and covert, are of the most alarming nature, and if not resisted must end in the subversion of all that is valued in the republican principles of our government; and a gorgeous monarchy in effect, if not in name, must rise upon its ruins." Were either of these statements true? We think not! Jackson's rule was incorrect, because the man who qualifies himself for an office is entitled to it in preference to him, who does not. And a man appointed, for qualification, has, *ceteris paribus*, a better right to continue in it, than any new aspirant. As to Ewing's monarchical scarecrow, it was simply laughable. And as to *ruins* in America, it reminds us of the caricatures, in which grandmothers are represented as doling out pompous warnings to children against their seducing each other in their social intercourse. Jackson hoped for "healthful action" from that, which proved in the end the country's disease, and Ewing feared tyranny from that (a vigorous Executive), which of all things should be really free.

The bane of Jackson's "rotation" hobby was not, what Ewing represented it, a tendency to monarchy; for on that point Jackson was in the right, since he was for securing to the Executive department its proper position in the United States Government; whilst Ewing and the Whigs were for an imitation of an omnipotent legislature after the model of Great Britain. The mischief of rotation was, that it increased the momentum of the mere technical, indeed we might say: the mechanical part of government, the public service, towards false partisan practices. The number of those who took an interest in politics for personal pecuniary interests was already great, and rotation, by

favor and not for qualification, increased them fearfully. Office-seeking became a vortex, that sucked, into central politics, all public employment, including that of the states and municipalities. Not a single family existed in all America, that would not have some member of it tempted into professional politics, and they centralized. From Jackson was hid in mercy the worst results of his policy:—to graft rotation on universal qualification for office with the accursed thing called “Patronage.” He never alluded to the subject in his farewell address, for he had begun to have doubts about it, and died with them in his mind, as the writer hereof heard them from his own lips in the spring of 1844; but he could not solve these doubts, because he was sadly at fault as to the true condition of his own party.

This was fully exposed by the following letter:—

“HERMITAGE, August 16, 1844.

“Never, gentlemen, had we more reason to felicitate ourselves upon the auspicious prospects which now summon the old republicans to the field. Instead of disorder and confusion, produced by differences of opinion respecting the relative claims of individuals, who were balloted for at the Convention, what do we witness? Unanimity without parallel. Rising above selfish feeling, those individuals, themselves, withdrew their names from the list of candidates, and united in the nomination of *Polk* and *Dallas*, two gentlemen thoroughly known to them, as having the highest qualifications of character and talent, and possessing, in an eminent degree, the confidence of their fellow-citizens.

“A party that can give such a practical proof of its capacity to harmonize, and of its ability, in the pursuit of principle, to bury all differences about men, cannot fail of success.

“I agree with you, gentlemen, in characterizing, as you have done, the annexation of Texas to our Union, and the occupation of Oregon, as American questions. Our Union is not safe, as long as Great Britain can be encouraged in her designs upon these territories.

“Let us rally, then, with patriotic and national zeal under the flags upheld by Polk and Dallas. If they are successful, Texas and Oregon will be ours; if they are defeated, British influence, under the pretence of abolishing slavery, will be interfering in our rights; and it will never cease, as long as our glorious system of government is a successful proof, that monarchy is not necessary to secure the happiness of man.

“ANDREW JACKSON.

“MESSRS. WM. S. REEVES and Others,  
Committee, Murfreesborough.”

This epistle was ascribed to dotage, which was not true, for his mental faculties were wonderfully preserved, when we saw him a few months previous. It was party blindness, however, and of the same nature as that, which then obfuscated everybody's political vision. Reflect, dear reader, on the principal words in the letter: "Unanimity,"—"rising above selfish feelings,"—"the highest qualifications of character and talents,"—"American questions,"—"Texas and Oregon,"—"the Union unsafe from Great Britain,"—"our glorious system of government a successful proof that monarchy is not necessary;" and compare with it the real truth, to wit: Discord smothered by party discipline and the hope of office,—selfish feelings exulting at the defeat of Van Buren,—the candidates having very moderate qualifications,—all public questions taking a sectional hue,—Oregon a blind to conceal the real intentions as to the annexation of Texas,—Great Britain not intriguing in America; but ours plotting mischief under Tyler through Calhoun,—the prophecy of Josiah Quincy, made in 1811, nearing its fulfilment, to wit: that annexations for the increase of sectional power are: virtually a dissolution of the Union; that they free states from their moral obligations, and that it will then be the right of all, and the duty of some to propose for separation. The only oasis in this dreary waste, of opportunities to see and to be right, being the revenue tariff of 1845, drawn by Walker after the election of 1844, but known and prognosticated during the campaign that preceded it!

The universal injury to the public mind produced by the intensification of party rule did not show itself most in Jackson; its effects vitiated even characters whose inner sturdiness made them revolt occasionally against party tyranny. Among the most noted of these was:

#### CALHOUN.

He never was the tool of parties, but he did not disdain to use them for his designs.

Too sectional to be national, and therefore never cleanly ethical, he was nevertheless ambitious for a national career, and he failed, in consequence of this equivocation, to become, what he might have been, the reforming Lycurgus of his section. It is false to call him the Cataline of America; he resembled, if anybody, Cato, because, like him, he was deficient in the public virtue most wanted in his time—judgment based on wisdom;—and he wasted himself and family on an impossible personal purity and austerity. Fully foreseeing the corruption



that must flow from the subordination of all public policy to the demands of the office-seeker, he did nothing for administrative reform, though he was himself, like the elder Adams, an excellent chief of his bureau. So, though ever talking of states-rights and freedom as to domestic institutions, he never exercised the power he had over the South to bring about the correction of southern society as to its public administration. His bitterest hour was in 1845, when he tried in vain to prevent the Mexican war. He then found, that arrows fly from bows too tightly strung far beyond the aim of the projector.

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### DANIEL WEBSTER.

The great figure opposite to Calhoun, yet much like him, was this politician. They both represented states, that were political antipodes from the start. Webster was, however, not a cynic. He was less pure socially. They were opposite, when they first met; but they then occupied positions on questions of states-rights (the tariff and the bank) that differed diametrically from those taken by them towards the end of their lives. Webster is a reversed Peel. That statesman began wrong and ended right; while Webster commenced right and closed by getting all wrong. Webster had found out early his immense oratorical powers, and knew that he could argue the wrong side with consummate ability. He was sent to Congress, when Massachusetts was still under the influence of authors like Josiah Quincy, Otis, and was tenacious of states-rights and federal strict construction. Their teachings had led to the Hartford Convention, and its echoes were still reverberating in New England. From a man, who did what Peel did, viz: "examine honestly for the truth, and fearlessly stand up for what he believed to be right," Webster became the advocate of special interests, that paid well, and he made their selfish purposes subservient to his personal success. He found out before he died, that there was a mutual mistake between them both. He thought they were the spokes in his ladder to fame and wealth; but *they* had regarded him as their purveyor for securing to New England riches and political power. He, too, never lifted his state out of its defective domestic government, and was never really a statesman; and his state did not fully sustain him, neither served Webster his state faithfully.

## HENRY CLAY.

Of him, the next great man of the period, Mr. Jefferson said: "He is merely a splendid orator, without any valuable knowledge from experience and study, or *any determined public principles*, founded in political science, either practical or theoretical." The judgment is harsh but true! He began life in the school of Madison, but drifted to J. Q. Adams, though disliking the family. Being by disposition anything but a Puritan, he should have acted with those elements in American society, which coalesced finally under Jackson, Benton, and Van Buren, for at heart he sided with them. Jackson mistook him for a "*vindictive demagogue*," but he was only an outspoken enemy of those, who crossed his path. Had there been no Jackson, and Clay would have filled the western eye much better than Jackson himself, and he would have been its first President. And had there been, on the other hand, no Clay, and Jackson would have been President in 1824 already, and most of his vetoes would have remained unwritten. But the country would hardly have been the better for it. Clay's opposition drove Jackson into the society of New York democrats, who gave to his mind an entire new mould, to wit: anti-bank, anti-tariff, and in favor of a strict construction of the Constitution. It, on the other hand, threw Clay into the hands of New Englanders, who took out of him his early principles and made him fall in with much ancient federalism. Clay could, however, be no more a true friend of Jackson, Calhoun, or Webster, than Cicero could be one of Cæsar, Cato, or Pompey. *Mere* orators never do like the men of action or rigid politics. Clay finally had to learn in 1836, 1840, and 1848, that a party built up by combinations of great interests will forsake their brightest genius, for the very commonest of men, provided they promise success at the polls.

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## DE WITT CLINTON.

This gentleman was a very important personage; he may be said to embody the character of the period we are treating of. He was born in the year 1769, the year that was so prolific of great men—Goethe, Humboldt, &c.—and entered public life in 1797, as member of the New York legislature. In 1802 he was chosen United States Senator, but resigned, to take the office of Mayor of

New York city, an office he held for twelve years. In 1812 he was the unsuccessful candidate for President against Madison, and this placed him in an equivocal position towards the dominant party, or rather its leaders, which he could never shake off again. It thwarted his aim to the Presidency, as well as Vice-Presidency, in 1824. He was, however, a potent man in his native state, for which he labored with unabated zeal to his death, in 1828. He was the originator of the New York and Erie Canal, a great commercial highway, that has had a future, which De Witt Clinton happily did not see. *He*, Franklin-like, thought of Ohio and the West of the United States, but glanced only at Canada and *its* West, the very country for which the city of New York is the natural commercial emporium. Clinton's large grasp of mind was not equal to the fine commercial and financial cast of the Medici's, and it was far below the great administrative and political capacities of De Lesseps. Still posterity will honor him, while it will wish, that he had made fewer bad precedents by his defective fiscal arrangements. The bad practice of using lawyers, that have turned politicians, for the management of great enterprizes, protracted the completion of what may be called, his work; it increased its cost, made it imperfect, and prostituted the whole thing to party ends. Thus Clinton stands for us in the deep shadows of false finance, with its still open wounds—unfairly contracted public debts.

It will then be remembered, that Clinton is before the world, not only as the father of great public works, but also as the originator of large public debts for their construction. No comprehensive system of taxation and assessment, nor thorough administration, formed part of his thoughts. His canal lines had inner lines for *his* career. The canal project was universally welcomed as a means to facilitate trade, to raise the price of town lots, and to furnish public employment; but it lacked a well-devised system of revenue, by apportioning the burthens on the state, the municipalities, and individuals, resting on the old Scotch principle: Bearing lot,—paying Scot. We may be told, that it would have been a damper on the public ardor to have burthened that generation, and that for that reason Clinton avoided it by using public credit. And this, added to the previous estrangement with the republican leaders, brought on him the aversion of the men of principle, who were opposed to using public works as baits to popular greediness, and as high-ways for personal ambition. They saw, that using the public credit was as much a conversion of private into public wealth, as taxes or assessments; and they showed, that all there was additional was a fiscal deception at first, and heavy burthens

afterwards. We remember well the great popularity which Clinton still had in 1832-34; but also how it sank more and more after New York had found (if the simile will be excused) in the soup he had cooked—plenty of hair. And after Pennsylvania and Ohio had also made equally bad experiences in their canal systems and the abuses of public credit that went with them, then America became aware, that it had drank a Circean cup, when it used public credit, instead of fair taxation and assessments, for public improvements.

Clinton is among Americans the completest representative man of those false politics, in which actually good things and objects are spoiled by the use of bad or erroneous means. But there is another point in his life, which deserves our attention, since it applies to many others, indeed nearly all public men of America. We mean that thing that has its counterpart in the lives of the main body of our commercial men and other great citizens. We refer to the large number of personages, who retire or are retired in full possession of their capacities for usefulness.

Stepping off the political stage with grace and dignity at the right time, voluntarily, is a feat not often accomplished by American public men; though they have the most illustrious example, in Washington, ever before them. But the country seems equally at fault in determining when to drop those, that still importune it for office long after they have ceased to be useful. The country also never knew when to dismiss honorably those who have served it beyond their vigor of mind and body. Public life in America is thus full of personages, that ought to be out of it; and private life is full of men, that ought to be publicly employed. John Adams lost thus twenty-four years of his life; Jefferson, sixteen; Madison, eighteen; whilst Clay, Webster, and our immediate subject never found the way either to a proper retention of office or to a satisfactory retirement. A similar lesson, only still more equivocal, was in the life of—

#### JOHN QUINCY ADAMS.

He, after he had entered and been in the diplomatic service for years, in a false relation to the administrations that appointed him, took a seat in Monroe's Cabinet as Secretary of State, and was there, in spite of himself, a disturbing element. He became President by foul ways in 1825, and was ignominiously ousted in 1828, but he re-entered public life as a member of the House of Representatives; and he died in its presence after a long equivocal service therein. We cannot say of his service and death in Congress, what Napoleon III. says of Sylla's abdi-



cation in his "Life of Cæsar": "It was the only extraordinary act, that remained for him to accomplish." Adams's end was also extraordinary; but it was not an abdication, and certainly not one coupled with unabated popular good-will. It was no more, no less, than the continuance of an equivocal attitude to the end. Who, that denies that, can tell us, for what definite public purpose he remained in political life after 1828? Was it to vindicate Hamilton's or his father's federalism? Or was it, to convince the world, that he was sincere in associating with the republicans who defeated his father? Or was it to show, that both were wrong, and that there was a truer way than either had, and that he was its embodiment? Flatterers called him the *Nestor* of the house. But where was his wisdom?

His re-entry was, we admit, a weak protest against a wrong rule; the one that excludes men, that once have been President, from other public positions; but was it dignified in him to do it by running for Congress in his native district? And if that is overlooked: Was it compatible with his national career to use his position for warring on the domestic institutions of the states, whose votes had hurled him from a chief magistracy, which he should never have gained by equivocal ways?

Adams knew, that the country was full of arbitrary politics; and that they prevented it from having the full use of its men of genius, talent, education, and discipline. He was himself the victim of a waste of acumen on the several foolish public questions of his time, to wit: how short the presidential term should be? whether there should be any or only a second re-election? and whether persons holding certain positions should not be held excluded from all candidacy? Perhaps the full perception of this mischievous public temper had not come to him before his own election by the House; but it must have come to him afterwards; for he must have seen, that every act of a chief executive needs time for proper fruition, and that short terms, with no understandings for some sort of continuity in a nation's policy, were depriving America of all executive as well as administrative efficiency.

There was the field of his greatness. Why did he not enter it? He had been in republican Cabinets, why could he not have been the President of such a one unequivocally? Why confine his movements in this direction to Clay? He—specially—was aware, that the country was sick, because there were not Presidencies enough for all its ambitious men; Jackson, Calhoun, Benton, needed some one, who could bring them and others into suitable public positions. If *he* could not be their common friend, it was madness in him to become their common

enemy. *That* he did, when he accepted the Presidency, by questionable ways; retained it on the same terms, and after he was ousted, came back to public life without having taken counsel with his better nature.

His father had just lived out a quarter of a century of forced retiracy, when he, the son, stepped into the Presidency. Why must he play the counterpart of his father by a forced public life? In it he did no good, perhaps he could do none. He was to the newer states, with all his antecedents, an unwelcome stranger; and he must have felt this, when he came to Cincinnati as the man of science, to inaugurate by a grand speech the new astronomical observatory. When soon afterwards he died, his last words were: "Is this all of life?" All? What all? Was it a long memory of an overlong public life rushing in upon his mind at the moment of death? Did he realize that he never did get into the right position? He would not be the leader of the federalists, and he could not be that of the republicans or democrats; and yet he was a leader! But for what object? Most likely his convictions forbid the first; his name certainly prevented the other. He would have to have been much greater and wiser than his father to have a successful career amidst the many difficulties, that beset his path. We joined afterwards in a movement to make his son—Charles Francis—President, but found that the old trouble still existed. It was the family, that would arise in men's minds with memories, that forbid a cordial popular support. It was thus easy for small demagogues to uptrip arrangements that were unusually perfect. The fate of the Stuarts and the Bourbons was then repeated in America, minus the more tragic details; and once more it has proved true, that descendants of unpopular ancestors must do some very signal act to regain public favor. But when regained, they can keep it only by showing traits of character, which obliterate the family traits, that first offended public judgment. John Q. Adams's conduct, like that of the English and French families named, was the opposite; it kept alive and confirmed previous impressions. And this is the reason why, instead of curing diseases, he transmitted to the new generation nought but germs of mischief.

## CHAPTER XXX.

*THE SPOILERS OF AMERICAN GOVERNMENT.*

"The greatest power is lost by bad administration."—*Publius Syrus.*

THE designation "spoiler" may seem severe, as a cognomen of the public men, that occupied the front seats in the politics of the United States, between 1848 and 1861, but we believe, that we could justify even a harsher name.

We must except therefrom *Zacharias Taylor*; his civic administration was too brief to decide upon its character. We believe him to have been a well-intentioned, good man, but as he died four months after his inauguration in 1849, it remains surmise, whether his plain soldierly sense would have saved the country from the folly of trying to settle the difficulties of the period by compromises? His successor took that direction, and to him we must devote a brief notice.

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MILLARD FILLMORE

was one of the worst of the many political squashes of that time. He took the helm, after Taylor's death, as his constitutional successor; and he, with other soft-heads, went to work to patch-up laws, called compromises, which needed a full constitutional correction based on a true understanding of the principles involved. He and his Cabinet lost the country four precious years that should have been devoted to a better foreign policy as to Mexico, the West India Islands, a canal or railroad over the Isthmus of Tehuantepec, Mexico; and for gaining the right position on the Pacific through the Straits of Juan de Fuca. The Clayton-Bulwer treaty, the impotent measures as to a reform in public administration and the public service, were nought but intensifications of defects that had grown up under previous administrations. The country now got on the inclined plane towards all kinds of

mischiefs, such as ended in Know-nothingism, Abolitionism, and the repeal of the Missouri Compromise, which may all be summed up in calling them: "Democratic frailties."

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### FRANKLIN PIERCE

was a vain, untrue man, and he never comprehended, indeed he never wanted to know, the actual situation. He meant to clinch the unclinchable compromises of 1850; but in December following, and in the spring of 1854, it was evident that they were as fragile as Pierce's word. Douglas, seduced by Atchison, had introduced into his Nebraska bill a clause repealing the Missouri Compromise; and the mythological fable of "Pandora" and her box received a new illustration. America then "*all endowed*," like her prototype, had in Douglas a new Epimetheus, who could not let well enough alone, and who would open the lid and give vent to all the furies that had been bred by the partisan contests of the preceding quarter of a century. The compromises, in which it was supposed they were locked up, proved of no avail, and Pierce succumbed the first of all!

American society now perceived, to its amazement, that both its great parties were in charge of engineers, who would obey no signals, but were determined on driving the trains, to their places of destination (the next election), ahead of the others, even at the risk of a smash-up. The old leaders of the democratic party, Van Buren and Benton, had lost all power over it, and in a similar way had the Whig party lost the guidance of Clay and Webster. Second-rate personages had assumed control in both parties, and they took possession of the locomotives, fired up the engines, and "drove the country," as a wary old statesman said, "to a place not to be mentioned to ears polite." Had this exciting race taken place between the two old parties, when under great leaders, and there would have been an acquiescence in the result of the election even in 1860; but the repeal of the Missouri Compromise and the organization of the "Know-nothing party," had completely unsettled party lines as well as principles and practices, so that there was a perfect hotch-potch of men and ideas in each party. There were now, beside the political differences, social issues on the subject of religion and the rights of property. The Catholic Church and slavery were made the defendants in the high court of clerical politics, and there were actually large numbers of the people, who believed, that *these two*, so-called, institutions had plotted



the overthrow of American freedom and corrupted the government.

The sober truth, as to both, was, that the people, connected with them, were earnestly defending themselves against attempts to drag them into the political arena. *They* certainly did not want to be the hobby-horses on which partisans would ride into office. The *Protestant* clergy was the one that had been long itching to play a political part; *they* saw their opportunity in the then imbroglio, and used a bewildered people for their designs. They seized the reins, but as they had to drive with politicians on the seats with them, and as these would often take one or both reins from them, there was much misguiding, which caused many mishaps. Which of the two had the worst effect on the other, is hard to tell, but one thing is certain, neither improved the other. The clergymen were bad politicians, the politicians bad churchmen. Confusion prevailed all over the Republic, and men and things were everywhere out of place. In both parties Freethinkers mingled with Catholics, anti-slavery men with pro-slavery, freetraders with protectionists, hard money-men with advocates of paper money, radical reformers with old foggy conservatives, liberals with persecutors, socialists with communists, nearly all having but one real object, political power. All the while they were professing religious freedom, the purification of government, and the moralization of society. The sincere men had no place in this *mélée*; it was a field-day for the insolent, the hypocrites, and the incompetents. The seed sown by the "Equivocal Period" between 1824 and 1848 had thus produced a very different crop, from what had been expected, and the harvesting fell to other than the designed hands!

Many, very many, tendered their services as leaders, but how were the people to choose? The old machinery was out of order, and as to the new, warning upon warning arose against each plan. Each faction predicted of the other the dire calamities, that *did* happen after 1860.

We beg the reader to mark this fact; for it shows, that all had an instinctive presentiment of the bloody end, that did come in 1861; only each thought the other to be the guilty cause, and spent themselves in blaming others instead of correcting themselves. And what they accused each other of, was true of them all! Each was without the true public spirit. Prophet Isaiah, whose description of the condition of Hebrew society in his time applies very closely to that then prevailing in America, says, chap. iii. ver. 12: "O my people, they which lead thee, cause thee to err, and destroy the way of thy paths." Who does not see, that these words applied with great force to what we call the Spoilers of American Government, who remained by 1857 and

1860 the leaders of the respective parties or factions, after a whole crowd of "would-be" leaders had been unhorsed? We refer as to the first to Douglas, Chase, Jef Davis, and Seward! It is due, however, to them and to their adherents, that we should add our belief, after the best consideration we can give the subject; that the main cause of the evils, which flowed from their acts, was their separate pursuit of their ambition, which led to many personal misunderstandings, prevented a combined, wise, and virtuous co-operation, and perplexed the minds of a miserably disjointed and distracted people. Had either one of these four, or all four jointly, been intrusted with full power, and the country would not have been driven over the precipice. Each of their respective programmes had a compensating logic in it, that would have saved us the illogic of events as they finally developed.

American society had then on its hands, what it had clamored for so long, *a not-governing government*; but it did not perceive it, for it was told, that it had still to overcome two ruling forces, that existed in derogation of popular rule, to wit: slavery and the Catholic Church. And, as if to justify this nonsense, both these institutions had furnished plausible reasons for the imputation. We have already mentioned the repeal of the Missouri Compromise as one of these causes. The other consisted in the efforts of Catholics to place into the presidential chair men, whom, in consequence of their having Catholic wives or for other covert reasons, they believed to be friendly to the Church. How sensitive and how prepared for tumult, the public mind was, could be glaringly seen in the burning of churches in Philadelphia and the bloody riots of Louisville. The raid of John Brown on Harper's Ferry, with his execution, both senseless acts, showeth besides, that America had its knight-errantry, but no Cervantes to hold it up to ridicule. Frauds and browbeating at elections, the sure forerunners of bloody scenes, proved that the real republican public virtue was gone, and that the ballot-box was now but an offensive weapon in political warfare. We had reached the perilous condition, when ambition has plenty of tools ready to serve it, provided that pecuniary consideration can be supplied. What Gibbon said of Rome applied to America:

"Her enemies were within her own bosom."

And what furnished these tools to ambition? Was it in truth Slavery, or the Catholic Church, or Great Britain, or the banks, or the immigrants, or liquor, or the sceptics, or any of the causes, that were paraded as such before the public in the press

and by public speakers? The tools were plenty and obtrusive, —what moved them was so patent to the eye, that we might almost despair of human nature, when we remember, how the people were hunting all over the land for imaginary reasons for the mischief that was upon them, and failed to find them. Let us run them over! There were half a million of office-seekers then (1852); there were the hundred millions annually, counting all public expenditure in the general, the state, and municipal governments, that depended upon partisan victories; and there were the national party organizations, that gave them the concentration necessary to enable them to act as one affiliated body in a common cause! Is it not plain, that the cure of the disease lay in taking away arbitrary appointments and removals, and substituting technical education and discipline, and general as well as special qualification, as preconditions to entering and remaining in the public service? Would not that at once have reduced the number of tools ready for ambition, and created a moral force for good and free government? Would it not have put into office much more of the talent, the industry, and the culture of the land? Would not the public pulse have beat stronger and yet more regular and free-er?

Franklin Pierce had it in his hand to complete and perfect American government, if he had, instead of making himself the champion of party interests, declared in his Inaugural his willingness and desire, that the patronage of the President should be abolished, and in lieu of it there should be prescribed qualifications for all appointments, and a roll of competent men to choose from. The Whig party was then annihilated, and everything was favorable for an appeal to the better feelings against the worser passions. England had about that time gradually amended her public service, why not America? What more need the President have told the people, than, that it was high time, that public employ should follow competency and not partisan services; that it should be open only to individuals in virtue of proved ability of superior capacities and attainments? A historic royal order of council said this to Great Britain in 1853, and Parliament seconded it, and the people sustained it, so that, ever since, the infusion of fresher, better, and more competent elements into the British service has been going on. Suppose Pierce had opened his mouth in the same way, and is it not obvious, that Douglas, Chase, Seward, and Davis would have had much less material for their factious combinations? And without the forces driven to them, by compelling the youth of the land to be partisans, the catastrophe of 1861 could not have occurred.

What was done instead of this? Mr. Pierce busied himself in distributing the offices (by favor), and in disposing of them to the public men of his party, so as to keep (?) the party harmonious. *That* which alone led to discord—employments in the public service without qualifications—he left untouched, as if he did not feel, that by 1856 there would be an election, that would burst all the little cords by which he hoped to tie the party together. That which would have lamed Douglas and Buchanan, and made Pierce strong and the deservedly great man of the party, he left undone; but he allowed the two rivals to manufacture for him foreign and domestic questions. *W*ide the repeal of the Missouri Compromise and the "*Ostend manifesto*." These exposed to the world's gaze the fact, that the head of the nation was but playing the second fiddle in the concert to small politicians. The public administration was all this time running down in efficiency, and the people became cognizant of it more and more, and clamorous for reform. Every day lost, to Pierce, friends; and when in the second year of his administration he signed the Nebraska Bill, it alienated from him the body of the people. Thus, instead of perfecting the government by giving it a trustworthy body of officials, a thing it never had yet ever wanted, he drove the country into political anarchy, by letting the party fall into the hands of men, who knew of none but unclean ways for the accomplishment of their personal designs.

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#### JAMES BUCHANAN

defeated Pierce in the Convention of 1856, and secured the nomination. He was elected, by the skin of his teeth (and then by improper means). He had, by a long life in crooked Pennsylvania politics, lost the capacity to understand a square public question, and therefore shirked them on all occasions. He became thereby the gravedigger of his party. Pierce had already killed it! There is a Nemesis in Buchanan's fate, that must be pointed out. He was by talents, education, and associations fitted to become the statesman of America; but the political, or rather, let us say, the partisan condition of the country, forced upon him gradually, as he entered and moved in public life and tried to run a career therein, a deviousness of conduct, repugnant at first to his feelings, but indispensable to his success. This gave to his movements the *snaky* appearance, which never allowed western men to take kindly to him. General Jackson expressed this very aversion in our hearing, by calling Buchanan "the snake of Pennsylvania." Seneca says of such surround-



ings: "They force better men to act in such a way, as to make them the worse men by succeeding." Had Mr. Buchanan grown up in England, and he would have become a valuable man in a Cabinet, and been its spokesman in parliament. But as he had to stoop so much, to keep rising in America, he lost the faculty of standing straight; indeed, he had got a habit of bending his head towards his shoulder, which all who knew him, regarded as the outer sign of the inner man. We have said all we dare say of him, considering the cruel judgment with which the Republican party is sending him to oblivion.

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### STEPHEN A. DOUGLAS

was a native of Vermont, and became the worst specimen of *homo Americanus*, a Yankee that has dropped the home morals which are forced upon him by a strait-laced education. He freed himself from it by moving, while young, to Illinois, and there gave himself up to his buoyant nature and the stimulating influences of western life. He took easily and readily to the impurities of politics in the state of Illinois. And, after he entered Congress, their sharper pursuit charmed him, and he became an expert in them. The national stage was to him, what a river is to fish, that first had to learn to move in creeks and pools. He soon found, that serving the greater men, that are about leaving the public stage, is a good way to step into their shoes. And he pushed through Congress a bill to pay General Jackson the thousand dollar fine and interest, that had been imposed upon him by Judge Hall in New Orleans, 1812. Jackson had refused it, when tendered to him by the people of New Orleans at the time, but now he took it from the general government at the hands of a politician, whom he really despised. Jackson lost a laurel by this transaction; Douglas picked a questionable one up. He was soon after elected to the United States Senate, and there became the focus of a coterie of men, who were in politics only for personal, and that—pecuniary, success. They called him the "little giant," and did not see the irony there was in the name. When the war broke out, which *he* had caused, he turned his back on those, whom he had intended to use as the ladder to the Presidency (the southern people and the Catholic Church), and supported the war. What he would have done, if he had lived longer, and been made what he expected to be—a major-general—was nipped in the bud by his death. We opine, America escaped having a No. 3 to Benedict Arnold and Aaron Burr.

## SALMON P. CHASE

was born in New Hampshire; he received his early training under the roof of an Episcopalian Bishop, and his legal education under the great lawyer, William Wirt of Virginia, who was the Attorney-General both under Monroe as well as J. Q. Adams. He retained through life the personal dignity he had learned to cherish under these tutors. Nevertheless he had to allow himself to be depressed somewhat to the level, on which all politicians had to move after 1848, if they wished to move at all. Long acquainted and familiar with him, it was and is our belief that he yearned for the Presidency so much, because he expected that he might then have stood up a great man untrammelled by either the adulations or the malice of his contemporaries. He failed in this his object, for the double reason, that to the higher-toned of his friends he was not pure enough, while towards the opposite characters he remained too pure. He was the first public man of the United States who played off the small minority, he controlled, successfully, and compelled both the great parties of the country to give him public position. The democrats made him United States Senator; the republican party elected him Governor for two terms, and Lincoln made him Secretary of the Treasury. In all these offices he yielded to corruption no more than he could help. He died as Chief Justice of the Supreme Court displeased with himself and his friends. He realized in his last moments, that posterity would have to judge him harder than he really deserved. What we have said of him in preceding pages relieves us of adding anything further to this notice.

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## WILLIAM H. SEWARD

had more genius, better mental discipline, and more political forecast than either Buchanan or Douglas; but his public morals were not much above the average. Had time been propitious for an Augustus in America and he would have played the part well. Seward's real views were left unsaid and unwritten on most subjects, because, in his opinion, the public mind was not ripe to hear them. He once remarked to the writer hereof, when in 1850 he passed through Washington on his way home to take his seat in the constitutional Convention of Ohio: "Make your Constitution short, and it will have to be broken much less frequently." He co-operated in early life with anti-Masonry, played with

Catholicism, sustained high tariff rates, voted for subsidies to steamer lines, but he never received personally any pecuniary reward for his services beyond his legal salary. All he derived from the interests he supported was, what he craved more than all things else, political advancement. And it was well said of him, that he was politically the uncleanest politician in the United States, but personally the cleanest. One cause—Know-nothingism—he would not serve, though it seemed to be for his interest to do so; “because,” as he declared, “it belittled Americanism.” Nor did he ever dally with slavery. He understood the bubbling nature of American politics better than anybody else. He was much like Talleyrand—could swear to a dozen Constitutions and carry out none. He knew that politics looked bad when seen in their nudity, and looked upon professions of ideas as the best clothing to cover their nakedness. And he furnished them to his party.

He exacted no ideal friendship from his supporters; what patronage he had, he conferred on them, and expected the same of them. He disliked Chase, because he was ever advocating some principle or some reform measure which Seward did not believe to be sincerely done by him. He thought even less of Douglas, whose personal habits and familiar intercourse with low people, were offensive to him.

The mantle of Hamilton had evidently fallen on Seward's shoulders, but he knew its personal perils too well, so he wore it very little, and only as a Sunday habit. He saw very well, that the time for a Hamilton was as much gone by, as for a Washington or a Jefferson. He had ever vividly before his mind Hamilton's death in the duel with Aaron Burr, but did not think, that it would be possible, that the assassination of Cæsar, the absurdest political tragedy in history, would ever be acted over again in the assassination of Lincoln and the attempts on his own life. When it came, he saw, that American politics were not all bubbles, but that the pages of their history were likely to be as tragic as any. Playing with fire under the hallucination, that it will not burn, because it is done in America, was the characteristic of the public men of the United States between 1848 and 1860. They all missed (every one of those that dealt in firebrands) their great aim—the Presidency; and history will record, that they deserved their disappointment.

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#### JEFFERSON DAVIS

is still alive, and standing in the deep shadow of contemporary hate. His contemporaries are hardly prepared to do justice

to him, but this we will say: that Mr. Davis will be to future generations the illustration of an adage directly opposite to that of Solon to Croesus. The great Athenian said: I call no man happy before his death. Another wise man has said, what is more applicable to Davis: "Call no public man a villain, before his death, for contemporary history is seldom just." Davis is the scapegoat of a lost cause, and bearing not only his own sins, which are many, but also those of his people and of his enemies. He cannot escape the obloquy of having supported the repeal of the Missouri Compromise, but he can offer an excuse for his conduct, which Douglas cannot, to wit: that he was influenced by a principle of devotion to what he believed *his* people's cause. His speech on leaving the Senate, just as he was going to Mississippi to be the President of the Confederate States, lies before us as we write, and we agree with him in the remark: that it was "a shame to the public authorities in the United States, that the disputes between the North and South could not be settled without war." But was he blameless? Did he, during the preceding controversies, hold that even balance, that justified his being a leader and ruler in the bloody conflict, which grew out of them?

We cannot answer the question in his favor! He used a party, when he should have appealed to the whole country. Thus two sinking causes added only dead weight to each other, and made both sink the faster. The democratic party was declining, because it failed to improve the administration of public business; slavery was sinking, because it used its political power to secure partisan objects. The two could, by coalescing, only deprive themselves of friends and multiply enemies. Both would have been stronger by themselves, than they were united; and the only act in that drama, which history will approve, is the separation of the southerners from the Baltimore Convention in 1860, after the nomination of Douglas. Yancy, the most eloquent man America ever produced, was the leader in that movement, and we shall ever remember his noble, lithe figure as he spoke in 1860 to that assembly. The South and its party were defeated at the polls, but what does that signify; if the act itself had been a regaining of the self-respect, that was so often trailed in the dust by previous partisan conduct? The time for its fair appreciation will come, when it will stand out clear as noonday sun, that the republican party did the very opposite of this, and made the country pay the cost of its ambition. The South might have done the same thing in 1857 by marching troops into, then revolting Massachusetts. It refrained then, under the advice of Davis, from playing the oppressor.



## CHAPTER XXXI.

## AMERICAN FATALISM.

"The instruments of destruction cannot serve in reconstruction."—*St. Simon.*

AMONG many old things, which America has revived in a new form, is ancient fatalism. Its specific American character is, that, unlike its antique brother, that believed all things subject to inevitable necessity, it ascribes this only to the peculiar nature and character of the United States. It cannot therefore be called pantheistic, but it is certainly patriotic, in the sense in which this word is usually applied. It is not astrological, for it looks to no particular constellation as the mediating cause of the nation's fate. We might say it is religious, like the Mahometan, in its type, because it has faith in supernatural Providence and its irreversible decrees; but when we examine it closer we find that it believes much less therein, than in popular instincts, and calls both: "manifest destiny." Its general features are often Calvinistic, of the John Knox type, but they are lengthened and sharpened by American fortuities. The phrases: Help yourself! All right! Go ahead! Let's try it anyhow! became gradually national watchwords. No man could be popular, while this feeling preponderated (as it did in 1860), who would urge any particular principle, method, or policy as necessary to public conduct. Neither party would nominate such men, and Jef. Davis, Buchanan, Seward, and Chase were defeated before the respective party conventions on account of their pronounced opinions. The men wanted were persons, who like Lincoln, or his secretary of the interior, Caleb B. Smith, were willing to drift because they believed that—

"There is a tide in the affairs of men,  
Which, taken at its flood, leads on to fortune."

This fatalism has had a slow but steady growth. It grew, the faster, the more purely Americans became Americans; for the very air they breathed gave it to them, and their peculiar success in most things, strengthened it. The Indian had it in his

stolidity and total lack of economy ; in the immigrant it became animated and intensified from the moment of his arrival ; the natives took it as an inheritance and intensified it.

It always arises among human beings, who are either prosperous or miserable from causes unknown to them. Its foster-brothers are indolence, indifference, and repugnance to inquire into *causes* ; either because the population has a lazy mental temper, or because it is half aware that the knowledge that would be worked out by inquiry would not flatter them and perhaps condemn them.

The ken of the *true* sources of social and political occurrences have lain deeper in America than in other countries, and at the same time the *seeming* causes were all on the surface. How easy to take appearances for realities, and how difficult to find the realities beneath the appearances ! It began with every first settlement. The new-comers could not forget the hard work, the frugality, and the restraints at home ; but before them was the fact, that with *less* work, *less* economy, and *less* government they prospered *more*. Pertness whispered, "It is your smartness that explains the paradox ;" Piety ascribed it to "divine blessings ;" and Modesty suggested, as a compromise, to call it "*fate*." It was a compound of divine goodwill and populary shrewdness. It soon got its verbiages, and we have ever noticed, that just to the degree to which the respective personages had self-enhanced existences, they were not fatalists, while for all beyond it they were such. Those of them, who associated most in church circles, got the habit of using general religious phrases, while those who moved in party proceedings employed political words ; and some mixed both promiscuously. Presidents and Governors prefaced or concluded their messages with them, stump-speakers used them for perorations, and all liked to hear and read them, because it gave them words for that for which they had no definite understanding.

This mental disposition discouraged philosophic and scientific research, and the questions : whether "the necessary relations of persons and things" were inherent in nature, or had to be found by juridical acumen, or were ordained by some being standing outside of nature ? were much less elucidated in America, than in Europe. Much as to religion and government was accepted from the past. And so it was as to the inquiry : whether morals are evolved by society or revealed supernaturally ? The inquiry : whether public authority is a social necessity or instituted by some omnipotence or sovereignty ? was also very superficially discussed. In everything, political and religious, there was less scientific progress.

The immigrants always found it more convenient to ascribe to fate his coming as well as his living here, than to reason them out, and neither the Indians nor the resident whites and blacks could give him any better explanations of *their* presence. They were all fatalities to themselves and to each other. Foresight, industry, economy, manners, government, churches, seemed to be surplusages, and they appeared to be kept up more from habit than reason. Such a population could not appreciate, as fully as less fortunate peoples, the necessity of carrying on public affairs from conscious reason, and to select men most fit to bring it out. And when, in 1860, an objective inquiry into the causes of the impending mischief, was the first and highest duty, it was evaded under various fatalistic casuistries.

The nation kept on voting, voting, voting, but all it accomplished was to express in numbers the aggregate amount of indefinite opinions. Every vote aggravated the difficulty of the hour. There were but more seeds of evil, and more haste towards a harvest of misunderstandings. An outside *scapegoat* was wanted in every section of the Union. The South found it in abolitionism; the North in slavery; Protestant Church zealots in Catholicism. Neither found it, where it was, within its own society and its own political conduct. Had there been a grain of sense left, they would both have seen, that the very fact, that they looked outside of themselves for the sources of evil, was proof that they did not understand the nature of democracies; for in them, whatever is wrong, must spring from the voting multitude.

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#### ABRAHAM LINCOLN.

We place him first, because he is the best of the fatalists. He said in the spring of 1861, on parting with his friends: "Pray that I may have that divine assistance and guidance, without which I cannot succeed, and with which I cannot fail." That was the easiest way for him to admit and yet conceal his fatalism. It was casting an anchor to the windward, and resting upon it, the people afterwards said with one accord, in extenuation of the war: "It could not have been avoided, it had to come some time or other, it was God's will, being *vox populi*." Seward had prepared the public mind for it by the phrase: "irrepressible conflict." Indeed! what else could Lincoln—always the child, and at last the victim of fate—do? except, what the Turks practice when they turn to Mecca, to wit:

"adore fate, and call it, divine assistance and guidance." He had left in early life his native state, Kentucky, for no reason, that he could intelligently explain, and had settled in Illinois by accident, not choice. He became an attorney without preparatory studies, a statesman without executive experience, a philosopher without having been mentally disciplined. And as he left for Washington, he was sort of conscious, that confused politics had made him President, that he was rising on a tide, which run so fast, that he could not fathom it. So he asked for prayers, because he had not the self-reliance which conscious genius and education alone can give. And thus he catered to his own and to popular infatuation.

How little he understood the volcanic social forces, that had lifted him into the White House, may be seen from his pledges in his Inaugural: that he would "maintain inviolate the rights of the States," would respect "their right to control their own domestic institutions," and that "lawless invasion of any state or territory, under whatever pretext, was among the gravest of crimes." As to the surrender of fugitive slaves, he promised, "that they should be delivered over without obstruction from hypocritical rules." Behind him there stood Chase and Seward, and over them all was hovering the ghost of John Brown, smiling, if ghosts do smile, at the fatalism—we will not, like others, call it hypocrisy—of these pledges. Afterwards he tendered "*compensated emancipation*," and spoke in favor of the *colonization of the negroes* to Central America, and said to a deputation of colored persons: "You and we are different races. We have between us a broader difference, than exists between almost any other two races. Whether it is right or wrong, I need not discuss; but this physical difference is a great disadvantage to us both, as I think. We suffer on each side. If this is admitted, it affords a reason, at least, why we should be separated." Did Lincoln then really not anticipate, that his course was rushing him and the country to the emancipation of negroes, and their being a permanent inseparable part of the American people? He ever after called them himself: *Americans by African descent*.

The most remarkable proof of Lincoln's fatalism is his letter to Horace Greeley, August 22, 1862. In it he writes:—

"My paramount object is to save the Union, and not either to save or destroy slavery."

"If I could save the Union without freeing any slave, I would do it; and if I could save it by freeing all the slaves, I would do it; and if I could save it by freeing some and leaving others alone, I would also do that."



"What I do about slavery and the colored race, I do because I believe it helps to save the Union.

"I intend no modification of my oft-expressed personal wish, that all men everywhere could be free."

If the *Union* and not *human rights* were the paramount object, why did he in his letter to A. H. Stephens, December 22, 1860, after assuring him that "there is no cause for fears, that a republican administration would *directly* or *indirectly* interfere with their slaves; indeed there is no more danger in this respect, than it was in the days of Washington;" add: "I suppose, however, this does not meet the case. You think slavery is *right* and ought to be extended, while we think it is *wrong* and ought to be restricted. That, I suppose, is the rub. It certainly is the only substantial difference between us"?

Why then promise *not* to interfere *directly* or *indirectly* with slavery?

The reference to "Washington's time" was especially unfortunate, for Washington signed the Act of Congress for the acceptance of Tennessee, April 2, 1790, without prohibiting slavery, indeed recognizing it in terms. He also approved the erection of Kentucky with a slave Constitution, June 1, 1792. So there is a square contradiction between the first and concluding parts of the letter. And mark! this was written to Mr. Stephens, who at once detected the inconsistency, and who therefore wrote in reply: "Our apprehension and disquietude does not arise from the fact of the known anti-slavery opinions of the President elect. Washington, Jefferson, and other Presidents are generally admitted to have been anti-slavery in sentiment. But in those days anti-slavery did not enter as an element into party organizations." There was the "*rub*," not where Lincoln supposed it to be. It was the party behind the President, that produced the fears about Lincoln's conduct. In *words*, he subordinates human rights to the Union and State legalities; in *deed* and *spirit*, he acts in the opposite direction! Had Lincoln, or rather his party, refrained, like Washington and Jefferson and other Presidents, from urging provisos against slavery in the acts organizing the territories, and not made it a point in striving for political power; *then*, and not as they did act, could Lincoln have said in truth, that there was no intention to interfere with slavery directly or indirectly.

Mr. Stephen states the rugged edge of Lincoln's and his party's purpose: "The leading object seems to be simply and wantonly, if you please, to put the institutions of nearly half the states under the ban of public opinion and national con-

demnation." *That* was the difficulty, and *this* the slaveholders could no more submit to peaceably, than the Protestants of Germany could allow their religion to be ostracized by imperial edict, in the beginning of the seventeenth century.

We must now recall the interview between the colored persons as to colonization, August 14, 1862.

Mr. Lincoln told them: "Your race are suffering, in my judgment, the greatest wrong inflicted on any people." Was this true? Was slavery in the United States the *greatest* wrong inflicted on any people? We *know* it is untrue. How then did Lincoln come to utter these words? It arises from his fatalism; his stopping short of a complete understanding of his subject. He said on the same occasion: "But for your race among us, there could not be war. Without the institution of slavery and the colored race as a basis, the war could have no existence." Were these words correct? Certainly not! For all that caused the war, was the impossibility of dividing the offices of the country and the official spoils, peaceably, between white public men, who were fatalists, and who had to run their career under universal suffrage and universal qualification for office.

Lincoln squarely informed the colored persons at that time: "There is an unwillingness on the part of our people, harsh as it may be, for you free colored people to remain with us." And anticipating, that they would persist in remaining, and that "they would have nothing to do with the idea of going to a foreign country," he said: "This is—I speak it in no unkind sense—an extremely selfish view of the case." And he recommends to them: Central America! Lincoln gave in this interview the true ground of all political action, to wit: the lasting welfare of society. The negroes' presence he then declared incompatible with this object; and he wanted them to go, and soon too, for he had arranged for settlements in Central America, and was willing to commence with one hundred, nay fifty, even twenty-five families. Did Lincoln adhere to the grounds here assumed? Were his subsequent acts consistent with this? Was he not aware, that, what he called the selfishness of the negroes, was in fact not true, or as far as true, a political selfishness cultivated by his party for ulterior purposes? Why did he abandon again the point, which he had stated so tersely, as to the injury involved for the country in the presence of the negro? Can he, or his defenders for him, give any other than party reasons? He closed the interview by remarking, fatalistically: "Take your full time, no hurry at all." The fact was, that Lincoln would ever inculcate half-fledged plans

and then would ask others to hatch them out, but they ever came to nought. Fatalism drove the vehicle !

He allowed himself even to be swayed by the archfiend of America then, Stephen A. Douglas, and allowed him to furnish the outrageous war-cry : " There can be no neutrals in this war ; there are only traitors and patriots ! " Yet Lincoln was himself at heart a neutral, all honor to him for it ! Why ! a very little reflection would satisfy any person of sense, that the better men of the country, north and south, were the neutrals. The immense patronage, which Lincoln distributed to the so-called patriots, did not purchase for the country a single true friend ; all the country got for its thousands of millions were fatalistic destructionists. And they were the stumbling-blocks in reconstruction. Mr. Lincoln was saved, by his fatal end, the pain of the verification of a prediction he often made, to wit : that " the office-holders would prove a tougher job than the secessionists. " The investigations by the House two years ago into the corrupt practices of Belknap, Babcock, Delano, *credit mobilier*, and the whisky rings, are all the ripened fruit of seed sown under the administration of Lincoln. Think ! how helpless he was, when trying to curb men like Benjamin F. Butler, or Simon Cameron, Chandler, &c. With the best of intentions he has planted numerous diseases in the country, some of which will try America's best talents to heal. His fame has been a waning quantity ever since his death, and when the verdict of history shall be finally recorded, he will stand in it as a *Colu di Rienzi* and not as a Washington.

Lucius Robinson, now (1879) Governor of New York, wrote in May 28, 1864, the true wants of this country :—

" There was never a time, when the safety and welfare of the country more imperatively demands careful deliberation with wise and resolute action. We have lived through three years of war, and have survived many bad mistakes, simply because the popular mind has been intensely fixed upon the single purpose of suppressing the rebellion at all hazards and at every cost. This one idea has had such controlling power, and the masses have followed so steadily, that it has served as a substitute for proper governmental leadership. But it is evident, that the time is near at hand, when the re-establishment of order, the removal of the cause of the rebellion, and the repairing of the terrible desolation it has produced, will require at the head of government the very highest qualities of leadership. How can we hope to live as a nation through the crisis before us with a *weak Executive* and a Cabinet in a state of discord and anarchy ? "

"Weak Executive," that was exactly Lincoln's character; and he was weak, because he and his coadjutors, Stanton, A. Johnson, Fremont, Greeley, Brough, Tod, Holt, Burnside, Pope, Hooper, Dix, Wilson, Fessenden, &c., &c., were one and all fatalists. In each it was different in words and style, but in essence they were all persons whose opinions were made up from *ad captandum* arguments.

Lincoln expressed once and only once, in his quaint way, what is necessary in the conduct of political affairs, and what his administration lacked. He wrote February 18, 1864, to W. M. Fishback, Arkansas:—

"General Steele must be master. Some single mind must be master, else there will be no agreement in anything; and General Steele, commanding the military and being on the ground, is the best man to be that master. Even now citizens are telegraphing me to postpone the election. This discord must be silenced. A. LINCOLN."

When Fremont, in September 1861, had issued a proclamation, dealing as an arbitrary master with slavery and rebels, he was reprimanded by Lincoln for assuming the mastership. And when he remonstrated and gave the very reason, that "he, being on the ground, could judge best," Lincoln interfered and overruled his proclamation. He was then still for leaving the slavery question "severely" alone. Poor Lincoln should have seen early, that an Executive cannot govern a country in peace, much less in war, whose mind is wavering between a variety of counsel. He must have a definite policy grounded on sound principle, and it firmly executed. Lincoln mistook the maintenance of the Union for a principle, when it was only good means to a good end, even when first entertained. Then it had degenerated into a mere party watchword! Lincoln issued his emancipation-proclamation on a silent promise to himself contingent on a victory over Lee.

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### CHARLES SUMNER.

This great sinner, in the garb of liberty, brought to the fatalism that prevailed after 1852, and culminated in driving the United States into a fratricidal as well as suicidal war, that of New England; which, as is well known, does not, like an Indian or Turk, wait for fortune to come to it, but meets it more than half way, indeed we may say: hunts for its smiles. Sumner's father intended to give his son a common English education, but Charles, from an unconscious inner impulse, studied Latin



besides, and thus he kept on, all through his youth learning privately something more than his father or the teachers laid out for him. Plenty came into the family through the sheriffalty of Boston in 1825, and that relieved the son of entering on an under-position in a school. He was unsuccessful in his application to J. Q. Adams for a West-Point cadetship, and all his military inclinations died out so entirely within him, that in 1845, when delivering a 4th of July oration on "The True Grandeur of Nations," he said fanatically: "In our age there can be no peace that is not honorable; there can be no war that is not dishonorable." He had been in Europe, had received distinctions for which neither he, nor those that conferred them, could give any reason; and he re-entered American life a spoiled native and an incomplete European scholar. He had no business capacities for being a practicing attorney, nor enough methodic erudition to be a professor, though he did some work in both. So he became a politician and a special pleader in politics. We can thus see, how he plunged into his fatalism. He said in his article, January 1843, "The Nation's Duty as to Slavery": "It cannot be doubted, that the Constitution can be amended, so that it shall cease to render any sanction to slavery. The power to amend carries with it the previous right to inquire into and to discuss the matter to be amended; and this right extends to all parts of the country over which the Constitution is spread, the north as well as the south." The sophistry of these premises, and the conclusions drawn from them, is transparent. It has only been exceeded by the Church in claiming, that because all things are placed under her charge by the Bible, that therefore she can hold inquisitions into all the relations of life and deal politically with them. A more certain way to bring the States and their people into collision with the Union government cannot be invented. We see him next write a pamphlet on "Caste and Slavery in the Church," and slyly insinuating, that there was in the United States a slaveholding caste similar to Hindoo castes; and he exclaimed: "Is it not strange that the Church or any body of men upon whom the faintest rays of Christianity have fallen, should endeavor to exclude the African, guilty of a skin not colored as their own, from the free-est participation in the privileges of worshipping the common God?" Who writes this? A man who, like his father before him, had no definite belief himself, and worshipped nothing except himself! "Privileges to worship"—"the common God,"—is good in this connection. Where were there any privileges? Where was the common God? The fact is: the mock reformer needed

a mock topic, and he suggested things and expressed them in words, that aroused prejudices. Why go south for subjects, when there were plenty around him in the north? Was it not, because, in the latter, to advocate home reform was unpopular, at least risking defeat, while reforming the institutions of other states was popular and promised success?

We do not single Sumner out, from any invidiousness; he pushed himself into being the anti-slavery isolated peak, and he liked to be it until the bitter fruits reacted on himself; then, unlike John Brown, who met his tragic fate like a true fatalist, he appealed to sympathies for a heroism that was not in him, and a disinterestedness, which was foreign to his own mind. He took his salary from the United States for years without rendering any services, and kept his state all this time from being fully represented. He married a woman, to whom he had no heart to give, and kept (after 1866) throwing stumbling-blocks in the way of a re-establishment of the Union; as he had done between 1855 and 1860, to its re-cementing and continuance in peace. No wonder that he left his mark between the leaves of his Shakespeare, and had noted this passage with his pencil:

“ Would I were dead ! if God’s good will were so ;  
For what’s in this world but grief and woe ? ”

Sumner had made the disintegration of southern society the work of his life, not because he wanted to do it; but because the drift of his personal success run that way. Had he really studied the subject and he would have known, that he could only bring positive misery to the whites and a negative happiness to the blacks. He conferred on the negroes the barrenest liberty ever tendered to man. His *Freedman Bureau* was but supplying idling-places for office-seekers, and his *Freedman Bank* ever looked like a premeditated swindle. His ideas of government all run to despotism, when carried to ultimates; and he had no administrative organism in his head, that was anything but a clumsy centralization. And taking steps, without thinking of the consequences, and simply relying on some general principle for their outcome, was Sumner’s master-fault. It made him a fatalist and the originator of preambles and resolutions one after another, that disintegrated American society.

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Let us now turn to the fatalism of the *South* and its leading minds. It consisted of their faith in state sovereignty and in the rightfulness of slavery, without ever having thoroughly examined either question. Both ideas had come to them from

their Fathers as a creed that needs only to be believed, being unquestionable. They inquired : where does sovereignty reside ? when they should have analyzed the word and its history, and found, as modern Germany has found by its great jurists, that government, to be rightful and useful, must study more its duties than its authority. And so as to slavery ; instead of assuming an extreme mastership, they should have thought of their responsibilities to the negroes and to society, and then they would have early taken steps to abolish not alone slavery, but to remove the negro. They were conniving at the permanence of a mongrel race in their native land, and dooming *it* in time to perpetual inferiority as a people. They accepted the perpetuity of slavery thoughtlessly, and persuaded themselves into all kinds of fatalism about it.

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## ALEXANDER H. STEPHENS.

We select him, because he is the better representative man in the South on our point. All the others being even more liable in this matter, thus he wrote : " Slavery is in conformity with the ordinance of the Creator. It is not for us to inquire into the wisdom of His ordinances, and question them. The great objects of humanity are best attained, when conformed to His laws and decrees, in the formation of government as everything else." This is putting American slavery under the same wing as European royalty—*Dei gratia*. In both it is a fiction.

Mr. Stephens next rebukes, in the same letter, an old northern fatalism, but immediately falls back into one of his own creation. He says : " It was the general opinion of the men of that day (Jefferson and his school), that somehow or other, in the order of Providence, slavery would be evanescent and pass away. It was a sandy foundation ; when the storm came and the wind blew, it (the opinion) fell."

He then argues, as above, that slavery is not to pass away, but would stand by God's decree.

We must, however, to be just to him, give also another specimen of Mr. Stephens's writings, that shows how near he can come to the truth and the right way, and yet miss it.

He said in his speech before the Georgia Secession Convention : " No truth is clearer, than that the best form or system of government for any people or society is that which secures the greatest amount of happiness, not to the greatest number, but to all the constituent elements of that society, community, or

state. If our system does not accomplish this ; if it is not the best for the negro, as well as the white man ; for the inferior as well as the superior race, it is wrong in principle." Only one little word is wanting in this passage, the word *permanent*. No legislator rises to the true height of good law-making that does not take the future (the longer the better) into consideration. Mr. Stephens's argument on the inferiority of the black race does not take away, from the public, the duty to pass good laws ; on the contrary, it increases it. Not the superiority of men, either physically or mentally, is the question, for it does not affect the legal relation. Even in finding the law between parents and children, the statute must be framed so as to protect those that cannot protect themselves. And the main criterion of the soundness of a statute is not the past or the present, but the future. Courts decide present legalities ; the law-making bodies determine, mainly, future (permanent) relations.

Mr. Stephens *loved* the Government of the United States (as he had it in his head) as a child does a mother. He said, November 10, 1860 : " Compare, my friends, this Government with that of Spain, Mexico, the South American Republics, Germany, Ireland (are there any sons of that down-trodden nation here to-night ?), Prussia, or if you travel farther east to Turkey or China. Where will you go, following the sun in its circuit round our globe, to find a government that better protects the liberties of its people, and secures to them the blessings we enjoy ? I think that one of the evils that beset us, is a surfeit of liberty, an exuberance of the priceless blessings for which we are ungrateful." We may admit the superiority of the American governments over all those, which he brings in as comparisons, and what does it prove ? Certainly not, that ours is as good as it should be ! Mr. Stephens shuts his eyes determinedly to the many wrongs all of us are suffering from our public administrations. We have spoken of them elsewhere. And with his eyes so fixedly shut, he cannot perceive their cause. It is not a "surfeit of liberty," or "an exuberance of blessings," that gives the true picture. The only superior freedom, which America has, as compared with Europe, is its opportunity to legislate with fewer entanglements from the past. But this very freedom carries tyranny with it, the moment present generations make laws and establish institutions, without considering the future of the country and its people.

Apply now this standard to the inquiry raised by Stephens, and ask : Which government takes the best and longest account of the future as to its law-making and public policy ? and it clears away the fogs, which Mr. Stephens's comparisons draw



down upon us. Take the British Parliament, or the French Chamber of Deputies, or the Spanish Cortes, or the German Reichsrath, or the Servian Skupshtina, and compare them with our Congress and our Legislatures, and tell us: In which of these legislative assemblies is there the most intelligent, virtuous and wise thinking, speaking, and enacting? Is it not in those where the ballot-box, that contains exclusively present desires and requirements, is most bravely subjected to prognostics of the future by using the genius, the culture, and the patient study of the superior and more sagacious minds of the respective land and people? We will not, say that ours stands lowest on this point, but we will assert that, considering our freedom from the past or vested rights, we do not stand as high as we should. And the reason is: that our ballot-box government injects into our governments too much present cupidity, and that we have too little thought of the future. That constitutes our fatalism. It lies deep in our surroundings; it has grown with our growth; and it culminated, north and south, into the terrible, entirely unnecessary war, by which future historians will judge our governments.

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### THE CHURCH FATALISM.

Fatalistic as the politicians of America were, its clergymen were and are even more so. The Presbyterian (old school) General Assembly met in Philadelphia, May 1861, and adopted (from the reports of both the majority and minority) the following preamble:—"Gratefully acknowledging the distinguished bounty and care of Almighty God towards this favored land, and also recognizing our obligation to submit to every ordinance of man for the Lord's sake, this General Assembly adopts the following resolutions:—

"Resolved that, in view of the present agitated and unhappy condition of this country, there be set apart a day of prayer . . . to confess and bewail our national sins . . . to turn away His (God's) anger from us," &c.

The "distinguished bounty and care towards this favored land" spoken of in the preamble, evidently soon disappeared in the resolutions.

The Presbyterian Synod (old school) of South Carolina resolved: "That the people of South Carolina are now solemnly called on to imitate their revolutionary forefathers and stand up for their rights. We have an humble and abiding confidence,

that that God, whose truth we represent in this conflict, will be with us, and we exhort our churches and people to put their trust in God. . . . We ministers and elders of the Presbyterian Church give them our benediction and assurance, that we shall fervently and unceasingly implore for them the care and protection of Almighty God."

The Protestant General Assembly, assembled in Newark (1864), declared: "That the time has at length come in the providence of God, when it is His will, that every vestige of human slavery among us should be effaced, and that every Christian man should address himself, with industry and earnestness, to his appropriate part in the performance of this great duty."

The Presbyterians of the South asserted: "The Presbyterian Church in the United States has been enabled by Divine grace to pursue an eminently conservative, because a thoroughly scriptural policy, in relation to the subject of slavery. It has planted itself upon the Word of God, and utterly refused to make slaveholding a sin, or non-slaveholding a term of communion."

The Assembly of Baptists, gathered from the various northern states, met at Brooklyn, New York, May 1861, and resolved: "That the doctrine of secession is foreign to our Constitution, revolutionary, suicidal,—setting out in anarchy, and finding its ultimate issue in despotism."

The Baptists of Alabama announced, November 1860: "We declare to our brethren and fellow-citizens, before mankind and before our God, that we hold ourselves subject to the call of the proper authority in defence of the sovereignty and independence of the state of Alabama, and of her right, as a sovereignty, to withdraw from the Union."

And in Georgia they resolved, April 1861: "We consider it at once to be a pleasure and a duty to avow, that both in feeling and principle, we approve, indorse, and support the Government of the Confederate States of America."

The Bishops of the Protestant Episcopal Church issued, in 1862, a pastoral letter, and in it they quote as binding authority from the "*Homilies of the Fathers of the Church*," on "Willful Rebellion," passed in England in 1737: "He that nameth rebellion, nameth not a singular and not one only sin, as is theft, robbery, murder, and such-like, but he nameth the whole puddle and sink of all sins against God and man; against his country, his countrymen, his parents, his children, his kinsfolk, his friends, and against all men universally; all sins against God and all men heaped together, nameth he that nameth rebellion."

Bishop Hopkins says in his protest in reply to this:—  
 “When the American Colonies revolted, and Rev. William White became the first chaplain of the revolutionary Congress, I do not see the slightest movement in our mother Church to condemn his course or that of the ministers that acted with him. The Bishop of London was the Diocesan of all the clergy in the Colonies, and had the undoubted right to suspend or to depose them, if the act of secular rebellion had been a proper ground for ecclesiastical denunciation. But that, in every age, has been regarded as a subject for the action of the State, and I doubt whether an instance can be found in the whole range of church history, where an ecclesiastical court has tried a man for secular rebellion.”

The Methodist clergy said to Abraham Lincoln, May 1864: “We regard this dreadful scourge now desolating our land and wasting our nation’s life, as the result of a most unnatural, utterly unjustifiable rebellion, involving the crime of treason against the best of human governments and sin against God.”

The Confederate clergy, made up of all the Christian churches, said in 1863: “As an excuse for violence, our enemies charge, that the Confederate States have attempted to overthrow *the best government on earth*, and call us traitors, rebels. We deny the charge. It will appear singular when men reflect upon it, that so many intelligent and Christian people should desire to withdraw from *the best government on earth*. And we need not discuss the kindness of those, who so generously propose to confer on us, by *force of arms*, *the best government on earth*.”

And of Lincoln’s proclamation they say: “Nothing but war! cruel, relentless, and desperate war! We solemnly protest, because, under the disguise of philanthropy, and the pretext of doing good, he would seek the approbation of mankind for a war that promises to humanity only evil, and that continually. . . . The condition of the slaves here is not wretched, as northern fictions would have men believe, but prosperous and happy; and would have been more so, but for the mistaken zeal of abolitionists.”

We will not quote further. Enough has been given to show the entire anarchy that prevailed then in America upon every public question. Connect therewith the fact, that the public men between 1861–76 were, as compared to those of 1780–1810, of a very low type, there having been a steady decline in the calibre of those at the head of affairs. Then reflect, that while mobs were vociferating: “This is the best govern-

ment the world ever saw!" good and wise Americans were hanging their heads in shame over the scenes that were going on around them. And who wonders any more, that fatalism had possession of public conduct? *Both* governments, the North as well as the South, had inefficient administrations; both wasted twice as many men and means as should have been, and both adopted about the same measures, viz: forced loans; corrupt conscriptions; false taxation; insecurity to life and property. Such was the order of the day in both sections. The writer hereof lived north before and during the war, and we say this as an eyewitness of things there. No expostulation with friends or foes availed, for the ready reply was: "This is fate!" "It could not have been avoided!" A greater falsehood was never uttered. We know whereof we affirm. The war was not fate, it was—crime; and it came because fatalism was then public opinion, and was voted into the ballot-box. Its true atrociousness came out, when Mrs. Surrat, an innocent woman, and Wirtz, a friendless foreigner, were hung for crimes committed by others, simply because public frenzy needed an immolation. They were, however, not the only victims of fatalism!



## CHAPTER XXXII.

## TREASON AND TRAITORS.

. . . "The calumnies of time  
Spare not the fame of him that fails,  
But try the Cæsar and the Cataline  
By the true touchstone—success."

—Byron.

WE do not agree with Byron, that success is the *true* touchstone of men's actions; but we admit, that by it, as a general rule, public men are judged. It has been the criterion as to the men, whose character we have to pass upon in this chapter.

No society has suffered more from trials and executions for treason, than that of England, Scotland, and Ireland, the three mother-countries of the largest portion of the population of these United States; and as the public mind of this country moves in British grooves of thought, it is proper, that our inquiries into the American doctrine of treason should be preceded by a brief cursory review of that of England.

In that country treason entered not only political but also social life, through the doctrine of "petit treason," and it has colored British feelings to a larger degree than those of any other people. And this is still the case, though the public disposition is less intense than formerly. One of the main reasons for the older cruelties, existed in the peculiar historic development of the British Isles, which made partisanism always pass for patriotism. England never had up to the eighteenth century a government that loved all its people, nor did all the people ever love the respective governments. In Scotland and Ireland hatreds of the English invaders were superadded to those pre-existing at home. There was, therefore, never a time when there was any thorough feeling of allegiance; and every treason trial had in it large grains of injustice; because they were prosecutions of opposite partisans. A man might be false to his country, and not be guilty of treason; and he might be true to it, and be found guilty of

treason. Shakespeare gives the motive of this thing in the words :

“Hate'st thou the man thou would'st not kill?”

This is the reason, why the country that had, in truth, the fewest traitors had the most treason trials. England long desired to get clear of this anomaly in her politics. She first mitigated the cruelty of the executions by doing away with the hurdle on which the victim was drawn to the gallows, the taking out the entrails and burning them while yet warm, the cutting off the culprit's head, the disposition of it by the king, the quartering of the body, the forfeiture of the estate, and the corruption of blood. But still the main thing—the killing of political opponents—would be as rife as ever to-day, if wise men had not since found ways for disintensifying political hatreds.

“The Declaration of Rights,” really the capitulation, which William III. had to accept in 1689 to get the crown; the Union Act with Scotland 1707, and the Acts of Succession 1701 and 1705, enabled the British nation to execute under Walpole one of those *half* solutions of British politics, for which England is proverbial. They consist in sticking to the old and yet establishing something new. We refer here specially to the new subjection of the royal Cabinets to parliamentary majorities, and yet the retention of the old rule, that “the king cannot intend to do wrong.” It exempts the king from impeachment and trials for his life (treason), and establishes ministerial responsibility. The dynasty became thereby practically the minor and remoter question; that of a change of ministries the major and ever-present. And thus the body of the people still had their objects of admiration or hatred, and could act their innate spite or adulation out in politics, without subjecting her public men to fears of being tried for treason. The rack, the headman's axe, the gibbet, were hid out of sight, and defeats at the polls and in parliament, with personal abuse, ugly outcries, often too brickbats, clubs, &c., took their place. And that really means, that the sacred (?) right of being disaffected towards government existed on condition, that the disaffection shall not go beyond these bloodless means, and that amidst dislikes there shall be loyalty to the king. The old treason statutes remained in the main, but they were a little amended and much forborne. And both parties agreed to this, not knowing but what they might yet want them. The Church went through a similar compromise when, feeling guilty at its bloody persecutions, it inserted into its death-warrants for burning heretics: *ut quam clementissime et citra sanguinis effusionem puniretur?* The

hatred of heretics still continued, only the mode of public execution was modified.

With changes in the conceptions of allegiance, changed also the ideas as to treason. An Englishman, who is now a part of the government, even if it were a mere legal fiction, has other relations to all public authorities from his predecessor, the feudal subject; and this alteration forces relaxations of the severer doctrines of treason. As he was now allowed to oppose the authorities, to have opinions, whether they should be in or out; and as every voter was presumed to be a factor in politics, it was inevitable, that a line should be drawn somewhere to define when it ceases to be lawful to resist those in power. The doctrine of the "overt act," that of the "*de facto* government," the requirement that there shall be "two witnesses," &c., &c., came in this way; and Art. III., sect. 3, clause 1, of the American Constitution contains the ultimate outcome of this tendency, and the line that was finally drawn. We see from it, that the surer governments felt of their legitimacy, the less cruel they became in reference to treason, the more lenient to traitors.

The American Revolution came, *after* England had abandoned (for Scotland and itself, at least) the extremest doctrines of treason and the more atrocious punishments. For Ireland they were retained longer, and milder treatment came there only after the Union Act of 1801. Humaner feelings followed there, as everywhere, the erection of established order; for then the dynasty could love the whole people, and all the people could love them. As to the Colonies, they were from the first treated as wayward children, emigration being a sort of disloyalty. They were allowed more will of their own in asking for government action or resisting it, because social necessities and motives supplied their politics largely. There was, therefore, in them an entirely new basis for allegiance, and consequently also for treason. The old basis, that fealty was due because public authority protected persons and property, would, if asserted before a colonist, raise a smile on his face; for he knew too well, that he owed most to himself and least to government. And if attempted to be enforced, he would rather forego the protection than assume the allegiance. The principle of native allegiance was also inapplicable to an immigrant, who had left his fatherland, and thus expressed his denial of the doctrine: "once a subject, always a subject"—so far at least as it denied him the right to look upon the whole earth as his mother-country. Natural allegiance to America by the European settlers was therefore necessarily of slow growth, and it could not well develop while England and the British Crown claimed an antecedent allegiance. The

struggle for independence (1776) awakened, however, these feelings; and the desire to feel like a full American, that had but one allegiance and that to his country, was at bottom of the revolution. In America came therefore, first, *negative* processes of thinking on the subject of allegiance and treason; and only afterwards, and then only, after strong antagonisms had developed in society, came the affirmative reasoning and motivities. And we think it equally plain, that memories and traditions would play a big part in the revivals of these questions.

It has been supposed, that England had the same issue to solve in her American colonies, which Rome had as to its *socii latinini nominis* or *socii Italici*; but we think, the issue was more like that involved in holding Germany, Gallia, and Brittany as subjects to the Roman Empire. Rotteck says of these: "Every alliance with Rome was the basis of a dependency, and all allies ended in being subjects." But is not this the inevitable outcome of all attempts for one society and its government to control the destinies of another, in cases where each of them needs public organisms of its own? that is to say: to have a political government, that guards and preserves to the uttermost the respective social state. A power like that of Rome will not, in fact cannot admit, that any other state shall exist within its rule, especially not one that asserts the basis of all national developments: "that nothing shall be preferred by its rulers before the safety and integrity of its own social state." American allegiance to Great Britain, like that of old Gallic, German, and British allegiance to Rome, meant subjection of American safety and integrity to that of the mother-country; and sooner or later this country and its people had to find (as England, France and Germany did), that it must be free from Great Britain, if it meant to make the preservation of its own safety and integrity the fundamental basis of all its social and political conduct. In other words: American society had to form and establish its own doctrine of allegiance on the foundation of its own safety and integrity. The necessity of free and separate national organization is always indicated, when the attempts to subject one society to the rule of another, involve the impossibility (or known unwillingness) of the one that would govern the other, to make its own, the ruling power, safety, and integrity the sole and paramount object and end of its polity. And that is exactly what England was determined to do. The Stamp Act, its navigation laws, the duty on tea, &c., &c., were all steps towards the assertion of the principle, that British safety and integrity shall be preferred to American safety and integrity, whenever the question would arise; and that this shall be the



permanent basis of all public policy. As soon as that was apparent, allegiance to Great Britain died here, and it was treason to America to bear it. At the same time allegiance to America took effect, and it was esteemed treason not to acknowledge and support it.

There was accordingly a period in American history when an American might feel loyal towards the British Crown. It was when allegiance to England was at the same time fealty to America. Such a time was in 1756, when Washington, as colonel in the army, that was raised to wrest Canada from the French, issued his proclamation at Winchester, and said in it: "Let us show our willing obedience to the best of kings, and by a strict attachment to his royal commands demonstrate the love and loyalty we bear to his sacred person; by rules of unerring bravery, strive to merit his royal favor, and a *better establishment as a reward for our services.*" The words italicized by us, refer to the Union plan of 1754; and it was the "better establishment" which was to be the reward of the Americans. In his mind the result of that war was to be a union of all the British-American Colonies, including Canada. And surely it called for gratitude from an American, that the king of Great Britain sent an army and a noted general for such an object, the dearest to his heart by all odds; for it gave his country a free West in the rear, instead of French annoyances and Indian hostilities.

Even as late as August 1774, Jefferson wrote in the instructions for the delegates of Virginia to the General Congress, which was about to meet:—

"We desire that you express our faith and true allegiance to His Majesty King George III., our lawful and rightful sovereign, and also our determination to support him, with our lives and fortunes, in the legal exercise of all his just rights and prerogatives. That we sincerely approve of a constitutional connection with Great Britain, and wish a return of an affectionate intercourse and of commercial connections," &c., &c.

Read now what the Declaration of Independence says, and judge who broke the bond in this case:—

"He (the king) has abdicated government here by declaring us out of his protection and waging war against us."

It annoys us to-day to read the previous quoted passages of the Fathers of this republic, but it does so, because we never fully understood their ideas of allegiance and treason. They owed to British Government allegiance merely, because and so long as it was *their* government; and they were faithful and true to it, while it was the ethical organ of American society. They never claimed, that there was a right *per se* in the people to

resist a government, simply because such was their *pleasure*. They asserted, however, that they had not only a right, but that it was their duty, to oppose and resist to the bitter end, all government, that was false to American society; in other words, when it is untrue to the new people. Always disloyal to a bad government (in the sense of wishing to change it), and always loyal to good government, was their axiom. They never recognized the right to govern in any body on the idea of Louis XIV.: "*Car tel est notre plaisir*." They condemned this idea as much in a people as in a king. Their allegiance was never *blind obedience*, nor was their resistance or opposition ever arbitrary or unreasonable. We do not say, that they ever said this in so many words; but we assert that this was the *spirit* of their thoughts and actions. And hence, when they first expressed allegiance to the Crown of Great Britain, the mental reservation was, that it was and would be doing right by American society. Washington speaks of the then reigning monarch as "the best of kings;" and Jefferson qualifies the determination to support him by the words: "all his *just* rights and prerogatives." And we have no hesitancy in saying, that these their ideas of allegiance and of resistance to government were right then, and are right to-day. The true law-abiding man is only he, who obeys that which (by reason) he knows to be the authority that acts out and enforces that which must be done to preserve and to enhance the social existence of a community. He thus argues, that the first duty of every man is to guard, preserve, and promote good social conditions through proper political actions. But he neither allows himself nor others to prefer, before the safety and integrity of his state, that of any other state, or of any special interest or personage. We have before, in other chapters, discussed these points, but must add in this connection, that all the merits of modern institutions will, on examination, be found to consist of provisions for so organizing society, that it can, without subjecting themselves to treason, put out bad governments and put in good ones. And further, that all their errors proceed from hallucinations, that any government is entitled to a blind allegiance, and that it has a right to obedience, when it is but a usurper of power and a false distributor of the wealth of a nation. The word sovereignty has done infinite mischief, because it embodies the justification of an arbitrary will. It was unfortunately too much even in the minds of the revolutionary Fathers, and misled them.

It was not to be expected, that states engaged in a struggle for throwing off a false allegiance, should sit down and ana-

lytically define the new truer allegiance which they intended to put in its place. It was much more likely, that they would simply transfer to the proposed substitute all the rights and prerogatives ever claimed by its predecessor. They would first of all assert and justify their own right of resistance, and for that purpose nothing was so convenient as to plead, as a set-off to the blind obedience claimed of them, their own inherent right to resist it *at their pleasure*. *Extremes se touchent* is also true here. Burke sought to make the distinction that insurrection *for* liberty is right; but *against* it, treason. And the idea had a large circulation in the United States; but it did not and could not satisfy the judicial mind, because at last the judge had to decide whether the object was freedom, or what Byron points out in the quotation at the head of this chapter—personal *success*. The first French republican Constitution declared: “When government violates the rights of the people, insurrection of the people and of every part of it is the most sacred of its rights, and the highest of its duties.” Samuel Adams taught, in 1743, already: “It is right to offer resistance to the highest authority of the State, if the State cannot be saved otherwise.” Nor was the British doctrine of treason, as it stood at the time of the American Revolution, entirely without the principle, that the safety and integrity of society is the fundamental reason of all fealty due from subjects. Justice Forster, as quoted in the notes of Chitty’s “Blackstone,” states the principle on which the statute of treason rests, to be:—

“The king is considered as the head of the body-politic, and the members of that body are united and kept together by a political union with him and with each other. His life cannot, in the ordinary course of things, be taken away, without involving a whole nation in blood and confusion; consequently every stroke levelled at his person is levelled at public tranquillity.”

The king is in this passage properly the incident; the body-politic and its tranquillity the reason of allegiance. Now the point, which the British Colonies, or American States, had to solve, after abrogating the king, was: who should personify this reason with them? The old legal fiction—the king—was gone; who should take its place? Had this question been carefully analyzed, and it would have resulted in an entire re-drafting of the doctrine of treason; but, *as* this was not done, it carried over most of the old errors.

Massachusetts, the pioneer state of America in so many good and bad things, put into her Constitution, made two years before the Declaration of Independence, and framed, while Jefferson

wrote the passage quoted from the instructions to the delegates, the following clause:—

“Every person chosen or appointed to office shall truly and sincerely acknowledge, profess, testify, and declare, that the commonwealth of Massachusetts is, and of right ought to be, a free, sovereign, and independent state; and that I do swear, that I will bear true faith and allegiance to the said commonwealth, and that I will defend the same against traitorous conspiracies and all hostile attempts whatever; and that I do renounce and abjure all allegiance, subjection, and obedience to the king, queen, or government of Great Britain, as the case may be, and every other foreign power whatsoever; and that no foreign prince, person, prelate, state, or potentate hath or ought to have any jurisdiction, superiority, pre-eminence, authority, dispensing or other power in any matter, civil, ecclesiastical, or spiritual, within the commonwealth, except the authority or power which is or may be vested by their constituents in the Congress of the United States.” And to this was added: “No man or body of men hath or can have any right to absolve or discharge me from the obligation of this oath.”

The man who wrote this clause was but a British lawyer in Republican and Protestant livery. He meant to transfer to America the doctrine of treason as it existed in England, minus only the King, the Church, the Pope, and Parliament. In the preamble, however, the principle of Justice Forster is more nearly expressed in the following words:—

“The State is a body-politic formed by a voluntary association of individuals; it is a social compact by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. . . . It is the duty of the people, in framing a Constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation and a faithful execution of them, that every man may at all times find his security in them.”

“We, therefore, the people of Massachusetts, acknowledging with grateful hearts the goodness of the Great Legislator of the universe, in affording us, in the course of Providence, an opportunity, deliberately and peaceably, without fraud, violence, or surprise, of entering into an original, explicit, and solemn compact with each other, do hereby ordain and establish the following Declaration of Rights and frame of government as the Constitution of the commonwealth of Massachusetts.”

It would be as difficult to prove that the true principle of all allegiance *is* in these extracts, as to show, that it was *not* there.



The truth therein is scattered between "the Great Legislator of the universe," "voluntary association of individuals," "social compact," the duty of "equitable law-making, impartial interpretation and faithful execution of them," and "laws for the common good." The maintenance and perpetuation of organic society would have expressed it in fewer words and more definitely.

Only one abuse of the British doctrine of treason is squarely abrogated in this Massachusetts Constitution, viz: Art. XXV. says: "No person ought, in any case or at any time, to be declared guilty of treason or felony by the legislature." This was an advance in the right direction certainly, for it guarded against a species of criminal law-making, which the subservient parliaments under Richard II. and Henry VIII. had largely indulged in. But legislation that prescribes technically what is and what is not treason, is liable to an opposite difficulty. Then every treason trial is likely to turn upon a *casus omissi*, and while there has in fact been treason committed, the culprit escapes punishment, because he avoided the technical act, which stands in the statute. And with a judiciary bound up in precedents and a bar trained in technicalities, society loses the very protection which the statutes were meant to secure. Its tranquillity is doubly disturbed, first by the traitorous individual, who snies the statute, but disturbs nevertheless its peace, and second, by abortive treason trials. Modern society has sought a remedy for this difficulty through the preventive functions of the police authorities, and there has grown up in criminal jurisprudence something like what hygiene is in medical science, viz: a system of preventive measures, that nip in the bud treasonable projects. And thus the powers of the police have had to be enlarged, which has worked well in Europe, but very badly in the United States, because the police in most cities is but a partisan force for the maintenance of those in power. It is, as such, more a disturbing than a loyal element.

We miss in the Constitution of Massachusetts the perception, that, in a republic, the doctrine of high treason cannot be that worked out from feudal or royal premises; that therefore the foundation must be laid anew, and a series of criminal laws based upon it, that will defend society against the peculiar disturbances of its peace, to which democracies are specially subject. The right of every citizen to oppose those in power at the polls, through the press, and by public speech, must never be allowed to degenerate into the subversion of society. Again, the American people must remember that it is a society more than a government, and that all its political organs should be

for its—the society's—preservation. Then it can build upon this premise and not on state sovereignty, nor on the vigilance of parties, as against each other, and just as little in ballot-box rule and supervision, a system of laws having for their object the preservation of public tranquillity, the prevention of crimes against its peace, and if they are committed in spite of these laws, then on their quick condign punishment through impartial tribunals. We incline to the opinion, that considering the memories that cling around the word treason, it would best be dropped altogether. France has given us a good example by obliterating from her *code pénal* the words: *Haute trahison*. They came to England originally from France, and it was no more than proper that that nation should be the first to abolish its use. Let English and American society follow it.

Burke's remark, that "treason was a misplaced doctrine in British jurisprudence, because even if clearly committed and successful in overturning government, it was called patriotism." This might be paraphrased, by saying, that the word patriotism should be struck out of British politics, for if unsuccessful they called it: "treason." Blackstone admits that "the zeal of British legislators, to stop the progress of some highly pernicious practices, has occasioned them a little to depart from the primitive idea, that treason consists in grossly counteracting that allegiance which is due from the subject by either birth or residence." Could he ever have spoken a harsh truth of British legislation, he would have said, that the whole treason doctrine was got up to give a legal mask to the murderous intents and gross hatreds of successful adventurers against their opponents. The safety and tranquillity of society was the pretence; success, in ambitious designs, the motive. And if not that, then the lust of some king or queen. How often sat the real traitor on the throne, and the patriot had to mount the scaffold! How frequently was the libertine the accuser and executioner, and the pure and innocent the victims? To *open* the door in America for a doctrine thus liable to abuse, was a crime against liberty; to *leave it open* inadvertently was gross negligence; because, as events have proved, the respective populaces here were as eager as ever to kill those whom they disliked, and to do it in legal form under cover of hating treason.

The first Congress of the United States, 1774–83, got along without a Constitution, as well as without treason trials; it had no courts for that purpose except courts-martial, and they would have gone according to the articles of war. The Union authorities had silently adopted the rule, that they would

not treat as traitors those citizens, that adhered to Great Britain. They called them "loyalists" in derision; which was indeed sufficient to ostracize them socially. The British commanders also refrained from the grosser prosecutions for treason, and entered into cartels for the exchange of prisoners. There were some confiscations, by State action, of the property of loyalists, that had left the United States, and had gone either to Canada or England, but they were never extensive, and were silently passed over in the treaty of peace. The United States promised verbally to stop all further confiscations, and to obtain some redress for those already made, and where the property was still unsold. Jay's treaty had in part for its object that of making these promises good.

The Articles of Confederation, finally ratified in 1783, were silent on the subject of allegiance and treason. The States claimed, and were accorded, exclusive jurisdiction on these points; but were in no hurry to exercise it. Some of them have no treason statutes to-day, and there has not been the slightest inconvenience from the omission. John Brown's trial and execution, near Harper's Ferry, is the only instance known to us of such procedures; and certainly not creditable to the state that soiled its escutcheon by it.

But to return to earlier times, we must not forget

### THE TRAITOR BENEDICT ARNOLD.

He stands with this designation in the American biographies. He escaped, which may well be called lucky for the United States; for he would doubtless have been tried for treason, condemned and executed, which would have been technically an error. He deserved death for desertion and conspiring with the enemy, while holding an American commission, but of treason he was not technically guilty, no more than Patkul was, whom Charles XII. had executed in 1707.

The severest punishment, that *could* be inflicted on Arnold, was his living until June 14, 1801, and seeing the cause triumphant, which he meant to ruin. His country hated him, and England despised him. He was himself dubious what would have been his fate, if ever captured; for he asked an American captain whom he had made prisoner: what the Americans would do with him, if he should fall into their hands? The captain at first declined to give him an answer, but upon being repeatedly urged to it, he said: "Why sir! if I must answer your question, you must excuse my telling you the plain truth: if my countrymen catch you, I believe, they would first cut off that lame leg, which was wounded in the cause of freedom and

virtue, and bury it with the honors of war, and afterwards hang the remainder of your body on gibbets." The reply showed a discriminating justice that is so often met with among Americans. They admired Arnold's military bravery, and remembered his distinguished services in the earlier period of the revolutionary war; but they detested his desertion, and therefore called it treason, because that word expressed the punishments, which they felt he deserved. The captain's name has, so far as we know, not been preserved, as it should have been. If it had, we should doubtless have some counties named after him, as was done after the captors of Major André.

The extreme ill-will borne Benedict Arnold, as compared to the treatment of Franklin's son and other pensioners on the British treasury, has never been critically examined into and explained. We see no difference in the respective honorable or dishonorable conduct, except that the first was a military officer and as such commanded an army after he had abandoned his country's cause. If loyalty to one's native land is the criterion of guilt, then both are guilty alike. Only from the soldier standpoint did Arnold commit the more heinous offence.

Had Arnold's private reputation been good, the judgment of his countrymen would have been more lenient; but his previous conduct in Philadelphia as commander of the garrison, had ruined him in the estimation of the American people. He had oppressed the so-called loyalists more than any other general, and appropriated the sums pressed from them for his own luxurious living. He was charged with extortion and enormous charges upon the public in his accounts. An army commission inspected these, and reported against him, recommending that he be censured. He appealed to Congress, but a committee of that body confirmed the report and charged Washington with the reprimand. His words express the loathing he felt for an officer that had unclean hands. He said: "Our service is a chaste service. Not even the shadow of a taint must darken our military distinction. The slightest inattention to this can deprive us of the confidence and favor of the public, which is then so difficult to regain. . . . I hereby reprimand you because you were not as delicate and pure in your civil conduct, and not as circumspect in your private life, as you were brave and excellent in military matters and its service." Arnold wanted to be rich as well as great; he loved extravagant living after the toils and privations in the field. He could not be a hero for a *poor* country, nor be a citizen of a republic that was rigid in her accounts. The reprimand soured his disposition, and when the offers, of the king, to grant the original demands of America, excepting only independence, were



rejected by Congress, and the news of the French alliance came, he took *it* as an excuse for espousing the royal cause, and opened negotiations for his re-entry into the British service, and the betrayal of the post confided to him. His plans were detected, and he barely escaped capture.

He issued then a proclamation, September 1780: "To the Officers and Soldiers of the Continental Army," in which he disclosed his own sordid motives. "What!" he exclaimed, "is America now, but a land of widows, orphans, and beggars? The funds of your country are exhausted! You surely can no longer continue in their service with honor and advantage." He accused, what he called "the managers," with his own crime, that of "applying the public funds to their private uses," which was a barefaced lie as to all the other generals. The only wrong about the funds was the curse of America—paper money, that was allowed to depreciate, and yet was a legal tender for all debts. It was issued recklessly, and Congress and the State legislatures used it for forced loans. An illustrated book called: "Washington and the Heroes of the Revolution," says of the period: "Congress presented at that time a pitiful spectacle. There were in it a few members of talent and energy, but most of them were men, who had succeeded in acquiring wealth, or who excelled in some special vocation, and who now believed themselves qualified to be rulers of the nation, although they understood nothing of the science of government, or political economy, or public administration. Full of their own self-overestimation, without knowledge or culture, they tickled their own vanity by motions that were as absurd as they were impracticable. Whatever cost money, they put off; they never foresaw a crisis or a necessity, and events always found them unprepared. They debated for months while the soldiers were suffering hunger and nakedness." That Washington was thereby placed into many perplexing situations, the reader need not be told. Such conditions try the character of men in the field; it tried that of the officers of the revolution. Some, like Washington, bore it patiently, but with remonstrations; others denounced Congress loud and deep; many lost faith in republican institutions,—all suffered! And the impure in thought began to question the cause itself, and inclined to leave it. The neglect of the soldiers on the part of Congress produced, if not many desertions, at least numerous defections, of which the British generals were cognizant, and they, of course, desired to use them for the advantage of their side. And, under the circumstances, this was natural; for man loves to see, next to devotion to his own cause, ill-will to that opposed to him. Arnold was caught in the nets thus spread for him.

A government, such as is described in the extract, which we have just quoted, retards success in the field in many ways. A soldier has an ingrained aversion to legislative bodies any way, but especially to such as assume to direct military operations; or that act as the executives or administrators in public affairs. Good men may serve such a government, because they have the greatness of soul, that lets them overlook annoyances and hindrances for the sake of the great cause to which they are devoted; but men of a low type or sensitive disposition will get either morose or fractious, and they will eventually be driven to desperate acts. Many a spirited horse, that would, properly broke, have been a useful animal, is spoiled when driven by bad drivers. Of the guilt of Wallenstein, the Camarilla in Vienna bears a large share in history; and the sedition of Pichegru would never have occurred, if the convent in Paris had not ruined, in his eyes, the republican cause. So also must the defection of Dumouriez be largely charged to the government in Paris. We do not refer to these instances, of great men ruined, because we think, that the (to a soldier) intolerable vexations inflicted by inefficient public bodies excuse the wrongs of these misdirected men, but for the purpose of showing, that we must, if we wish to judge aright, take into account all the circumstances of a case. The Congress and the Legislatures that co-operated in the issue of irredeemable paper money; that neglected honest taxation; that were financially weak if not downright dishonest, were not the bodies from whom a man like Benedict Arnold could take a reprimand for acts, that were different from theirs only in private impurity, while theirs was public immorality. With a higher-toned government the guilty thoughts of Arnold would have slumbered in his breast perhaps for ever, while ordering Washington to rebuke him, incensed him and bred the ill-temper which grew fast into crime, when he perceived the distrust of himself by all the other officers, especially Washington. The words of the reprimand, that a good opinion lost could hardly ever be regained, went with him, wherever he moved, and he felt his own career for ever blocked in the revolutionary army, and looked beyond its ranks for a renewed career. What more natural, than that he should fall back on his old loyalty, or that which passed with him for it? He embraced the opportunity to be great and rich offered by the British general. Arnold could love no cause for itself, but, least of all, could he love one that was being injured by an ill-disposed Congress, and one in which there was no place for him. Knowledge of the faithlessness of a husband has made many a wife faithless, especially those whose temper is stronger than their virtue. And in this connection it may be well enough

to mention, that Arnold cherished his wife and she him ; it was all they both saved out of the wrecks of their American careers. He averred, that she was innocent of his desertion, but the world would not believe him.

The British Government was aware of this ill-feeling in the American army, and Knyphausen's expedition into New Jersey, 1778-79, had the object of affording aid and comfort to the disaffected. . It was defeated, because Washington, who represented not only great military capacity, but also administrative integrity, kept alive in the hearts of his soldiers a belief in honest American government. Had there been a commander-in-chief of less private probity and pecuniary honesty, and British tenders of profit and honor in their armies would have found frequent acceptances ; and Benedict Arnold would not have been the only betrayer. Washington's strategy and tactics were of much value to his country, but his freedom from mercenary motives and shining example as a pure citizen, saved it from defections, which, if his greatness had not overawed many littlenesses, would have broke down the cause of American independence in 1779-80. We may know the effect of Washington's behavior on the smaller minds, when we read the defences and excuses of the strong-willed men. Benedict Arnold writes that he cared little for the opinion of "the world, who very seldom judge right of any man's action," but he wanted "to stand right with Washington," and to him he appealed for protection for Mrs. Arnold. Conway, another malcontent, wrote to Washington, when he believed himself dying : "I stand at the end of my life, and truth compels me not to hold back my real sentiments. You are in my eyes a great and good man. May you long enjoy the love and veneration of this country, for it owes its liberty to your virtues." Such testimony gives brilliancy to an already bright character.

The people of Philadelphia carried Arnold around the streets in effigy, on a large platform, called his crime high treason, had the devil on the stage with Arnold, and finally burned the mock image, &c., &c. And it was supposed, that the traitor was much chagrined at this ; but this was an error ; for the only time he showed any emotion was when he read, that Washington had said : "I am mistaken, if at this time Arnold is not undergoing the torments of a mental hell. He wants feeling. From some traits of his character which have lately come to my knowledge, he seems to have been so hackneyed in crime, so lost to all sense of honor and shame, that while his faculties still enabled him to continue his sordid pursuits, there will be no time for remorse." The judgment was but too true, and its truth cut to the quick.

Arnold himself complained of ingratitude and said: that the rejection of the overtures made by Great Britain in 1778 (since they contained all that America should ask, in his opinion), and the French alliance, had opened his eyes, and made him a confirmed royalist. He may have deceived *himself*, but he certainly did *nobody else*. He was not blamed for being a royalist; for many others, among them, Franklin's natural son, held to such views, without being held infamous. What America could not forgive, was that he should espouse her cause, and pretend to fight for it, while nothing but sordidness actuated him in his conduct. Moreover, he deserted a flag he had sworn to, and was therefore not only a mean citizen, but also a perfidious soldier.

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#### COLONEL NICOLA.

The listlessness of Congress and the State legislatures towards the army continued till the end of the war, indeed beyond it, and engendered all sorts of feeling. They were all more or less tinctured with mistrust of the kind of republicanism which Congress was assumed to represent. *Colonel Nicola*, who possessed the confidence both of Washington and the army, and who had several times been the spokesman in cases where confidential communications had to be made to the commander-in-chief, finally addressed a private letter to Washington expostulating in glowing language against the shortcomings of Congress, and stating the sufferings of the troops. He added: "This condition must convince every thinking man, and especially military persons, that republics can be but feeble governments, and that the army has done great deeds only, because it was under a good leader that had dictatorial powers. I do not entertain a doubt, therefore, that whenever the advantages of a constitutional monarchy are fully considered, they will be recognized and adopted. Then, however, there will be no opposition, that the high talents and greatness of character, which conducted us through almost insurmountable difficulties to victory and glory, and which the whole world admires and the the army reveres, are the only ones that can conduct us to this happy end. Many folks mix their conceptions of monarchy and despotism in such a way, as if there were no distinction between them. It would therefore be proper to select for the title of the head of the government a less offensive name than that of monarch; but when things shall move in regular order, the title *king* would, in my opinion, always be the best."

Washington's reply was a stern rebuke for the author, but it expressed more the displeasure of a friend, than that of an incensed



judge. The rumors, that prevailed among the people, as to movements for making Washington king, had excited the public mind, but soon their rejection by him became also known, and quieted all apprehensions. No doubt the public mind was almost unanimous, that to establish a monarchy would be nearly as much treason as to hand the country back to Great Britain. The oath of allegiance exacted in Massachusetts, which we have quoted, was drawn with that view, and they expressed public sentiment. Colonel Nicola complains of the confounding of monarchy and despotism ; but did not he himself jumble republics and weak executives and administrators together as if they were synonymous ? Had he understood, that the best republics have had also the most efficient executives and administrators, it would have saved him writing a letter, which was sure to lead to misconceptions and make him look much like a traitor to republicanism.

It is absolutely distressing to read the history of the United States between the conclusion of peace, 1783, and the formation of the Constitution, 1787. Here were a body of men, and many of them had been officers in the revolutionary army, who denounced and opposed, as a sort of constructive treason, all efforts to make the government of the Union, under the Articles of Confederation, efficient in protecting the public credit, and to give it an active and useful administration. Every movement towards the perfection of the machinery of government was warned against, as if behind every public functionary, especially if he ever carried a sword, stood a king. The real issue was totally misrepresented. It was not between a republic or a monarchy, but between a democratic imperialism, with demagogues as leaders; and a constitutional republicanism with statesmen as guides. It was a base calumny, as well as stupid use of a word, to talk of treason to liberty, when the object was merely to have integrity as well as wisdom in government. The word treason was a misnomer for every political movement of that period ; because it was as untrue of those who wanted more and better government, as it was of those who saw liberty only in a minimum of public authority. The first wished really only a modicum of political rule ; and the second were in fact not opposed to so much as was established. Neither had, in truth, any evil design against liberty ; unless an ardent pursuit of happiness and wealth, with a view to being a social force within himself, is to be denounced as inimical to freedom. Then all were its enemies.

There never was an hour of *British* history when the dynasties in power could give their subjects the true reason of loyalty ;

and British law-books abound in sophistries on the subject. The legal profession there and here has always fought shy of the question of treason; for a very brief analysis would always bring them to points which their inner sense revolted at; and yet there was the necessity for some rule of law, by which to judge and under which to kill those who

“Would not bend the knee,  
That thrift may follow fawning.”

The American judicial mind runs in British grooves, and it has inherited their disinclination to grapple with treason doctrines. The popular feelings thereon are, for that reason, still uncorrected, and they call traitor him, who differs from them in politics. This propensity has mixed itself into the treatment of every sturdy character, and has intermingled a vein of injustice with their justest condemnations. And this is the reason, why history cannot accept as conclusive the contemporary judgment on men like Arnold, Nicola, Aaron Burr, and Jef. Davis. Let those, who doubt this, analyze the reluctance of Chase to try the last-named for treason. They will find, that it was for the same reason as that given by Berryer to the Chamber of Paris, in France, on the trial of Napoleon III., to wit: that “no one can be a judge in a case, in which he is a partisan.” As to Benedict Arnold, military men had no trouble to make up their mind at first, but suppose they had to act on him afterwards, as a prisoner taken in war? Would they not have to find, as the United States Supreme Court had ever to find, that the doctrine of treason is in America, as the negroes say of white men, “mighty uncertain.”

It certainly did not lie in the mouths of the very Congress or the State legislatures, whose faults had discouraged many an officer, soldier, and citizen as to republicanism, to denounce as traitors those, who, thus discouraged, fell back on their former loyalties. And just as unjustifiable was it, to accuse those of treason who, at the close of the war, when the question: what kind of government should be established? was still open, wanted to start it with Washington as king. Their sort of monarchy was not very dangerous; it went back to the fundamental reason for having chief executives and unity in administration. Was there not danger, that a very low kind of republicanism, that which wanted no national authority at all, and no higher ethics in State governments, would get the upper hand? Yea! was it so very preposterous in men, who looked anxiously, through the surrounding gloom, to some light spot in the horizon, to say to themselves: We had better begin with the king, that events have tried and who stands before us con-

firmed in all the virtues that make kings out of men ; than end in a mock emperor who is the creature of mean politicians ? Schiller makes the Marquis de Posa say to Philip II. of Spain :

“ Be you of many kings a king ! ”

And when he afterwards explained this phrase, he stated, that he meant it to express a true *republican* idea. Within the seven years, that followed Nicola's letter, the United States passed through a ratification as well as an abandonment of the Articles of Confederation, and they landed in the Constitution of 1787 with a President for chief executive, that was in some respects too little restricted, and in others too much. America had forgotten the old lesson of history, that a king made with eyes open will ever be a better creation, than the same executive personification, when instituted with eyes half shut and half open, because the name of his office sounds republican.

Another decennial period brought Jefferson after Adams, and he came to the old question—that of the sphere of a chief executive—in a new form. Jefferson certainly was a republican, but when he purchased Louisiana, he acted a king's part, and his action puzzled many and unsettled the loyalty of all. The first victim of the change was :

#### AARON BURR.

He was Vice-President, when in April 1803 the purchase of Louisiana from France was consummated. The success of that negotiation by Jefferson, the man that defeated him in 1801, gave a new turn to Burr's ambition. He saw that he was an impossible man within the regular politics of the then United States, for both parties disavowed him, after (indeed — before) this term 1801–5 was out. He felt that he must, like Alexander, conquer for himself a world of his own ; and *that* could, *then* and for him, be no other than the territories now embraced in Texas, California, and Mexico. These vast areas were then under Spanish viceregents, sleeping the sleep that could have no good awakening. All kinds of dreams, as to their future, were in the minds of its public men, but in all of them the idea of being another *Cortez* played its part. The then Spanish minister at Washington, Yrujo, understood very well, that, after the purchase of Louisiana, the Spanish possessions in any part of North America must, sooner or later, become an object of desire to the United States ; and when Aaron Burr suggested to him, to establish in the southwest of North America an empire, the thought pleased Yrujo, as a proposition that would, if successful, place a power between

Mexico and the United States, and, if unsuccessful, be at least a diversion against the United States. The word "*independencia*" had not yet been publicly spoken in any Spanish colony, though the readiness with which the Mexican Indians took up the idea in 1810, when Hidalgo pronounced for it, shows that it never had ceased to be the wish of the original descendants of the Aztecs, to throw off the yoke of Spain, mild as it was. The several insurrections led by Allendo, Morelos, Aldama, Ximenes, Bravo, Metamoras, Mina, Moreno and Morales, prove that the Spanish Mexicans were also disaffected. How far Burr had knowledge of this condition of the Spanish-Mexican provinces is not known, nor have his understandings with Yrujo been divulged; and so too has it remained a secret, whether the Spanish home government was cognizant of the movement. We presume neither party informed the others of all their plans and expectations. Aaron Burr, at least, was not an open character, and withheld, even from those most intimate with him, his full purposes. That Burr's imperialism meant a popular imperialism, must be inferred from his pronounced republicanism; but whether and what part the mines of Potosi and the "halls of Montezuma" had in his schemes, who knows? Jefferson himself believed it possible, that "Burr might have had followers enough, to be in the city of Mexico in six weeks, because such an enterprize was so popular in the United States as well as in Mexico."

We need but to think over what Austin, Lamar, and Houston accomplished afterwards in Texas, and run down, through the many projects for founding colonies or settlements in Mexico, and even empires, down to that of Napoleon III., and Maximilian, to realize, that that region has ever been the plotting-ground of schemes in which some one came from the outside intending to impart to it a vigor and growth, which it was taken for granted it could not have from within itself. Burr's brain was certainly not the least fertile among the many, that have planned for Mexico. Why not apply to his projects the remark of Voltaire in his Charles XII., that they are of a kind, that "are called divine, if they succeed, but are regarded as chimerical, if they fail of success"? Is it not true to-day of Mexico, that some organizatory genius must be brought *to it*, to relieve it of its own interior discords? When in 1828 the American minister, Poinsett, took the side of the "Yorkinos," and helped Querrero against the Escosesos, under General Bravo, he was but following the natural bend of all his countrymen to interfere in Mexico. And when the Mexicans offered General Scott the protectorship over Mexico, they but obeyed a chronic necessity. Grant has lately confessed that he tried



to persuade Seward and the heads of the administration in 1865 to at once despatch a force to Mexico after our war was over, and to allow our confederates to join, with the view of reuniting all the states and their people in a *common* undertaking.

The moment the United States territory extended beyond the Mississippi there was, as there is still, a Mexican issue. And however much Jefferson and his friends might question Burr's capacity and disposition to solve it right, the latter could have no doubt. He was a soldier, had come within an ace of being President, and evidently was not very clear as to the distinction between an act done and—a policy carried out for a country—by an official person, and the same thing executed by a private person. Why should not he become popular by some grand act as well as Jefferson?

The public mind did not reason closely; its feelings were with Jefferson, because he seized them, and they believed his charges of treasonable designs against Burr. The courts rejected them, but Burr was nevertheless—"hustled down the wind."

Aaron Burr had, so far as love of money and luxurious living is concerned, the same taint in his moral character which lowered Benedict Arnold in Washington's estimation. But he had one more, an immoral love of women. Indeed he ever preferred the forbidden to the lawful fruit, and liked to have it spiced by danger. This gave to all his dark schemes a darker hue, and made even his good acts appear as if behind them were evil motives. If others were engaged with him in the same act, he would receive the blame for all that was wrong in their steps. In the duel with Hamilton, the opponents for duelling laid all the fatality of the event at Burr's door; and he could never have recovered from the sinister aspect this gave to all his conduct, even if he had never attempted to conquer Mexico. An evil spirit seemed to be in everything he undertook, and good men and women were afraid of him. The wreck he made of the Blennerhasset family increased this feeling, and it outlived him. It still prevails.

After Burr's trial the United States took up, what they should have done from the first, criminal legislation against acts inimical to the country. They had then to learn, that not every high-handed unofficial act, whether for or against the great interests of America, was treason, and so they defined, by a series of statutes, the different degrees of crimes as to expeditions, such as those of Burr. Blackstone has taken some pains to show, that "while there was felony in every treasonable act, there was not treason in every felony;" and Congress,

corrected by the Supreme Court in the pleadings in Burr's case, took up the same idea.

Art. III., sect. 3, clause 1, of the Constitution, which says: "Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, —giving them aid and comfort," was now more closely inspected; but not close enough to see, that this clause, when taken in connection with others on the same subject, referred to treason that might be committed against the States either collectively or severally; as well as to treason against the Union or its government. This was the gist of all issues, that might be raised on this subject; in short, that treason against the States was the main point, they being the object and subject of the Constitution. Congress was to "declare the punishment," but there was to be no "attainder of treason," no "corruption of blood," "no forfeiture" of estate against heirs; and, besides, that "persons charged with treason, and fleeing from one state to another, are to be delivered up on demand to the state having jurisdiction." There was to be, therefore, both federal as well as state jurisdiction—a point that came out in the trial and execution of John Brown, and surprised many. Aaron Burr, whose mind would see technical points first, made his plans all to hinge on operations that were to begin *outside* of the States, in the territory of Louisiana,—and made it a salvo to his conscience; but the point was too fine spun, like other ideas of his, and at last did not avail him much in popular estimation.

Chitty (in note 4 to star-page 77, vol. iv. of Blackstone) says of these clauses: "Treason may be either against the United States or against the State. . . . The last is, levying war against the people of a state within the State; or a combination by force to usurp the government of the State or to overturn it, evidenced by a forcible attempt made within the State; or adhering to the enemies of the State, and giving them aid and comfort, when the State is engaged with a foreign enemy in cases prescribed in the Constitution of the United States (2 R. S. 656). An overt act must be done to constitute the offence (2 R. S. 692), and two witnesses must prove the same overt act," &c., &c.

It will be noticed, that the learned commentator puts the word "*foreign*" before enemy, which we agree is the fair conclusion to be drawn from the provisions of the Constitution if taken all together, as well as under rules of construction derived from federal jurisprudence; but we must not forget, that this word is not in the instrument, and that it is still an open question in the United States, whether a citizen of a state who is enrolled in the armed forces of his state; and they are acting

under the authority of the state against other states or the Union forces, commits treason in the sense of the United States Constitution? It will bring this point still more forcibly before us, if we will reverse it and ask: Whether a United States citizen, either native or foreign-born, who invades another state under the orders of his state or those of the United States, is guilty of such a crime? Both points were raised in the confederation of Germany, and for a thousand years it has been held there, that such acts are not treason. The war of 1865-66 was fought in fatherland on that understanding, though not fully reasoned out.

And in this connection we allow ourselves to request the reader to study carefully what Grote says on "Ostracism," the Athenian (Solonic) method of dealing with treason, vol. iii., pp. 143-146; and he will see, that while the Greeks had a punishment for acts which modern states treat as treason; they had none for war between the Greek States, nor for conflicts imperilling the Ionic Union. We shall recur to this point hereafter.

General Jackson declared, in his proclamation of December 10, 1832, that "disunion by armed force is treason!" Suppose he had written: "To use armed force by one state against other states or the United States is war, and *eo ipso* dissolves the Union," would it not have been truer? He seems to have had such a view in his mind, for he says in the same paper, that he means "to arrest if possible, by moderate but firm measures, the necessity of a recourse to force. . . . But," he continues, "if it be the will of heaven, that the recurrence of its primeval curse on man for the shedding of a brother's blood, should fall upon our land, that it be not called by any offensive act on the part of the United States." This primeval curse was, for Cain, the killing of Abel; his crime was fratricide, but not treason. Why bring in *heaven* here? We have no doubt, that nullification was a crime, but equally so are we certain, that it was not treason. We wrote forty odd years ago, on first reading the proclamation of Jackson, to a distinguished jurist in Germany for his opinion on this question, and put to him the following query: Is it treason in individuals, when their state levies war upon the federal Union, to do hostile acts as soldiers or officers in pursuance of the law of their state, against the general or state governments? And he answered: "It is not treason, but war; and that may be a much greater crime than treason, if wantonly and recklessly entered into. Then it comes within the rules laid down by Vattel in cases of unjust war."

Right here it may be proper to give the formula of the

Germanic Union of 1815 on the subject of treason, viz: "Whereas it is the object of this Union to maintain the independence and inviolability of the German States; and whereas these consist in the exterior and interior tranquillity and safety of Germany; and whereas the federal Constitution is an integral part of the Constitutions of the States, and there is such close coherency between them, that an attack on one is an attack on all; therefore every attempt against the existence, integrity, safety, and Constitution of the Union shall be treated in accordance with the laws of the several states on the subject of high or other treason." Had such a clause existed in the American Constitution, and there could have been no doubt, that Aaron Burr's conspiracy, as well as Calhoun's nullification scheme, would have been treason, provided the respective states, where the wrong was done, had statutes to that effect. The reply to this will be, that dependence on state enactments is the very thing the Constitution was intended to prevent, and, though we doubt whether the framers thereof had any such intention, we would not object, had they done so. But the fact is, that they did this, as to the punishment, in authorizing Congress to declare it, but not as to the definition, what shall constitute it. In that respect, Chitty gives, no doubt, the correct construction, to wit: that "aiding and abetting a *foreign* enemy," and nothing else, is treason.

We beg to be allowed to suggest, that any one, be he ever so strenuous an advocate of placing power with the central authorities, and an opponent of states-rights, will soon find himself in the right mood on this question, if he will only sit down and commence to draw up an enactment for defining the causes for which a fellow-citizen of the same state with himself shall be held to have committed treason, if done against the United States or a sister-state. Would he, we would ask, declare it treason in him, if he as a militia man, or as a member of a volunteer company, carried on, either offensive or defensive war under the laws of the state, and under the order of his lawful state commanders? The state legislator might declare it treason for any person to set on foot or to carry on any armed force against the lawful authorities of the state or of the Union, but he certainly would not punish its citizens for standing by the state's own integrity and safety.

We are aware that the doctrine, that the king can *intend* no wrong, has been transferred to America in favor of the factors of its public will, and we accept it as a sound basis of allegiance and treason; but in the United States, as in all federal governments, the question turns upon *two* public wills; one



evolved by federal, the other by state authority. And to concede to the citizen of a state a certain degree of freewill between them is indispensable to the practical carrying on of the Union. To treat as treason obedience to either one, would be equivalent to destroying the States' or the United States' legitimacy respectively. One would be as wrong as the other. It would be punishing constructive treason treasonably.

General Jackson said in his farewell address: "Never for a moment believe, that the great body of the citizens of any state or states can deliberately intend to do wrong." This faith in the rectitude of the intentions of the matured public will of the respective authorities is the corner-stone of our political edifice. And with *it* the doctrine of treason, when extended to make, obedience to lawful authority, treason, is incompatible therewith. Jackson himself admits in the same address: that "cases may be imagined, disclosing such a settled purpose of usurpation and oppression, on the part of the government, as would justify an appeal to arms." He adds: "there are extreme cases." But when he says *that*; does he not admit, that they are the very ones, which must be provided for? that is to say, they are those, in which the individual citizen must not be punished for treason, if he sincerely believes it his duty to take one side or the other. Solon, wiser than any modern Constitution builder, made it a crime not to decide *pro* or *con*, and not to do it soon. He instituted Ostracism on purpose to enable citizens to take sides, and to make his choice effective. The remodeler of his institutions (Kleisthenes) revived this procedure, and gave it safer and more effective forms. (See Grote's "History of Greece," vol. iv., pp. 150-165.)

Grote understood, as will be seen in reading the chapters referring to Ostracism, which Solon instituted and Kleisthenes amended; that in a "government of contending parties" the virtuous citizen must take sides,—that there are times when no political idea or system should be assumed as an unquestionable rule, because there is then "no conspicuous standard to which the citizen could be pledged under all circumstances to attach themselves;" that often "the option lay between a mitigated oligarchy in possession, and a despot (despotism?) in possibility." The same wise historian also tells us, that doubt and option and choice ended "when the idea of the sovereign people and the democratic institutions became both familiar and precious to every individual citizen;" that is to say, when the government was no longer one of contending parties. The same author points out, that "when two party leaders, each powerful in adherents and influence, become passionately

embarked in bitter and prolonged opposition to each other, such opposition is likely to conduct one or other to violent measures ;” and that he that “continued within the bounds of legality might fall a victim to aggressive proceedings on the part of his antagonists.” And this was the very status in 1860 between Douglas and Seward. Evidently, then, a government that provides no remedy for obviating such conflicts should not punish as treason, a citizen, who cannot help it, if these unsolved issues end in hostile parties and they actually take up arms ; especially when there are public authorities, that are entitled to his support, on both sides, and he must decide from the best lights accessible to him, with which he is to co-operate. And if in such a case his party should draw him closer than some rigorist would think compatible with the country’s interest, would it be just to call him a traitor ?

Grote goes still closer into this question in book iv., p. 154, when he speaks of “that rare and difficult sentiment, which we may term a constitutional morality ; a paramount reverence for the forms of the Constitution, enforcing obedience to the authorities acting under and within those forms, yet combined with the habit of open speech, of action subject only to definite legal control, and unrestrained censure of those very authorities as to all their public acts,—combined, too, with a perfect confidence in the bosom of every citizen, amidst the bitterness of party contests, that the forms of the Constitution will be not less sacred in the eyes of his opponents than his own.” Grote thinks that this status exists under the aristocracy of England (since 1688) as well as in the American democracy. The reader knows to what extent we agree to this optimistic view of British and American politics, and we are perfectly willing to leave it to each person’s judgment, whether the political conditions of the United States presented that fair aspect in those periods, when certain sections of the Union felt impelled to take extraordinary steps against what they believed actions destructive of their best interests. We refer here specially to the Hartford Convention and nullification, but they apply also to the conditions of 1861, and also to the election of 1876.

The reader knows, that the United States came out of the nullification imbroglio, just as it came out of the previous instances where the question of treason was involved, without really settling the main issue. The tendency to violent measures, spoken of by Mr. Grote, became therefore stronger and stronger. Buchanan was elected in 1856 with the taint of fraud on him. In Kansas, yea even in the States, there had been bloody conflicts and incendiarisms. The laws of the

United States could not be enforced without commotions. And bowie-knives and Sharp's rifles were more potent than arguments. Both sides played civic politics only for the purpose of securing the vantage-ground as against their opponents. Neither party could trust the other, for both meant to use government for their own special designs. The insurrection of Brown threw a lurid light over the scene, and he had to die a felon's death for his foolhardy undertaking. The papers lately published, from Gerrit Smith's posthumous files, show how the most philanthropic citizens of the republic trifled with constitutional obligations. Playing with lucifer matches in a powder magazine would be on a par with the preparations for the raid on Harper's Ferry arsenal. When Gerrit Smith was informed of the actual deed, and heard, that Virginia meant to apply to John Brown and his accomplices the old doctrine of treason, and that most likely there would be a requisition for him, it almost bereft him of reason. So new, so startling was to him a doctrine, that was, as we have seen, always in the United States Constitution, and was indeed one of its main features. Brown's high-toned reticence and grand devotion to those, in whose sincerity he had confidence, saved entanglements, that would have tested the public temper, as to treason, to the utmost. As it was, the doctrine was stretched no further than came within the plain terms of the Constitution. And still nobody rose to the true position indicated by Grote, to wit: that as long as a government is in the indefinite as to its fundamental principles, it is a nation of disputants, and unsettled in its ethics; and that while in that condition, it is wrong to talk of any fixed allegiance, or of severe punishments, such as are associated with the word treason. He holds otherwise with a government that has arrived at definite organic developments, and has them embodied in a matured public will. Then, if ever, it is entitled to institute, and it is its duty to provide, for ways and means, that curb false ambition, and put down nefarious assaults upon its integrity and safety. In other words, to make treason unlikely; nay, impossible.

It was, as explained, a false tone in the public mind, left there from the nullification period, that let the Union drift into civil war between 1852 and 1861. All were studiously avoiding technical treason, yet all were drifting towards war. The South thought, that it would escape felony and dishonor, if it put the States between its citizens and federal authority; and the North thought it would stand absolved of crime if it could use the federal government as its medium against the Southern States. Aaron Burr already tried that game in pretending to act by

authority; for he knew the temper of his countrymen to be such, that they would do invidious things under cover of law, which they would not do, if they had no legal subterfuge. Jefferson also understood this point in the American character. He wrote to Lafayette, July 14, 1807: "Nothing has ever so strongly proved the innate force of our form of government as this conspiracy. Burr had probably engaged one thousand men to follow his fortunes, without letting them know his projects, otherwise than by assuring them the government approved of them. The moment a proclamation was issued, undeceiving them, he found himself left with about thirty desperadoes only." And to Bowdon he wrote, April 2, 1807: "No better proof of the good faith of the United States could have been given, than the vigor with which we have acted, and the expense incurred in suppressing the enterprize meditated lately against Mexico. Although at first Burr proposed a separation of the western country, and on that ground received encouragement and aid from Yrujo (the Spanish minister), according to the usual spirit of his government towards us, yet he early saw, that the fidelity of the western country was not to be shaken, and he turned himself wholly towards Mexico. And so popular is an enterprize on that country in this, that we had only to lie still, and he would have had followers enough to have been in the city of Mexico in six weeks." Evidently Burr needed only to have had technical law on his side to have given to his great scheme a grand ending. Jefferson struck him the severest blow, when he took the legal mask from his face. Had the President connived at his plot, and all Mexico might have been annexed to the United States before 1810.

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### THE LAST PHASE OF THE TREASON QUESTION,

1860-65.

The so-called "Rebellion" produced only repetitions of ancient extravagances; for the public mind still used British law formulæ and intensified them by partisan passions; and again refused to take up the subject in the light of federal jurisprudence. It kept vociferating treason, treason, where there was no treason, but a much greater crime, a fratricidal war! And it was the result of a neglect to cultivate proper understandings, as to the true relations of the States and their people to each other and to their federal government. The public mind was in the status warned against by Grote when he says: "Nothing is so



mischievous as the indifference of the mass, or their disposition to let the combatants fight out the matter among themselves, and then to submit to the victor." Both the contending parties will, under such circumstances, seek to clothe themselves with public authority, and either try to seize the existing government or to erect a new one, if that fails. In that way alone can they obtain, what is the ultimate aim of each, viz: "the passive submission of all citizens to their rule."

The actual war, that broke out in 1861, was only the overt act of long-standing aversions and hostile feelings; and to talk of loyalty or treason, when there was no side any longer, which a true impassioned patriot could espouse, was ridiculous, if not vicious, on the part of the masses, and perfidious on the part of the leaders. What each party wanted, they had sedulously created, to wit: adherents blinded by passions that would support any and all ends which keen-eyed ambition and sordid desires for filthy lucre (rag money) had in view. They succeeded but too well, and upset society. The course of both, after the war was over, proves, that the thirst for power remained unquenched, and that the real solution—a proper understanding as to the true relations of the people to the States and the Union—was as far off as ever from final settlement.

Some people have wondered, that out of the late war no *national hero* has sprung up. We think the reason is well stated by Sir Walter Scott in one of his novels, when he quotes an ancient gleeman as saying: "In a false quarrel there is no true valor, and the *los* or praise won therein is, when balanced against honest fame, as valueless as a wreath formed out of copper, compared to a chaplet of pure gold." A clear title to fame cannot be won in a strife between factions even by the greatest of men, simply because, though contemporaries as well as posterity may respect their motives, still they must condemn the fact. No subsequent fraternization can wipe out the blood that was spilt, or the wealth destroyed, or the prosperity hindered. The downfall of a portion of a country by the overpowering strength of another portion cannot be a national (ethical) desire, nor can those who act in such a war have national glory. The *meditated* death-stab of the Union (for *accomplished* it cannot be) will ever rise up in memory and live in tradition, if not in printed history, as proof, that all the public men of the time either knew not, or neglected the means, that should have been employed to arrest strife in time. They all stood, bellows in hand, fanning the fire, and when they would get tired of this work they got up peace conventions,

reunions, conciliatory conferences, but only to rest in them, preparatory to renewed and more heated antagonisms. In these meetings they professed the very love and respect for the rights and feelings of all, which, if they had actually existed, would have saved the country a bloody catastrophe. A governor of Tennessee, who would not attend one of these convivial meetings in 1859-60, gave, when asked for the cause of his non-attendance, the reason, that "he did not want to tell any lies and did not wish to hear any."

When a nation is filled by factious antipathies, and has lost the modes or never had them, that calm its hatreds and form a wise and virtuous collective and harmonic public will, the end is war. And in such a war loyalty is in abeyance, for there is no public authority that can rightfully claim it.

The late war closed with the tragedy of *Booth*, the assassination of *Lincoln*, the hanging of *Mrs. Surrat*, and the execution of *Wirtz*—all acts which must be condemned, for they violated right and justice, although they were the logic of events! Was *Booth* a traitor or a hero? Was *Lincoln* a tyrant or a saviour? Contemporaries will answer according to their view of the respective causes. We say they were neither, and predict, that history will so record. What *Lincoln* believed himself to be with death impending, the assassin's pistol cut it off from being known. What *Booth* thought of himself he recorded in his diary as follows:—

April 14, 1865. "Until to-day nothing was ever thought of sacrificing to our country's wrongs. For six months we have worked to capture. Our cause being almost lost, something decisive must be done. . . . I struck boldly, and not as the papers say. I walked with a firm step through a thousand of his friends—was stopped, but pushed on. The Colonel was at his side. I shouted '*sic semper*' before I fired. In jumping I broke my leg. I can never repent it. I meant to kill. Our country owed all its troubles to him, and God simply made me the instrument of his punishment. Our country is not what it was. This forced union is not what I have loved. I have no desire to outlive my country. This night, before the deed, I wrote a long article and left it for one of the editors of the '*National Intelligencer*,' in which I freely set forth our reasons for our proceedings. He or the South."

The second entry in the diary, under date April 21, says: "After being hunted like a dog through swamps and woods, and being chased by convoys, I was forced to return, wet, cold, and starving, every man's hand against me. I am here in despair. And why? For doing what Brutus was honored for

—what made Tell a hero; and yet I, for striking down a more cruel tyrant than they ever knew, was looked upon as a common cut-throat. My act was purer than either of theirs. One hoped to be great himself; the other had both his own and his country's wrongs to avenge. I hoped for no gain. I knew no private wrong. I struck for my country, and that alone—a country ground beneath this tyrant. I now behold the cold hand that is extended to me. God cannot pardon me if I have done wrong. I cannot see any wrong except in serving a degenerate people. The little I left behind me to clear my name, government will not allow to be printed. So ends all. For my country I have given up all that makes life sweet and holy; brought misery upon my family, and sure that there is no pardon in heaven for me since man condemns me so. . . . To-night I will once more try the river with the intention to cross. I have a great desire, and almost a mind, to return to Washington, and, in a measure, clear my name, which I feel that I can do. I do not repent the blow I struck. I may before my God, but not to man. I think I have done well, though I am abandoned with the curse of Cain. If the world knew my heart, that blow would have made me great, though I did not desire greatness. To-night I try to escape these bloodhounds once more, but who can read his fate? God's will be done. I have too great a soul to die like a criminal. Oh! may He, may He spare me that, and let me die bravely. I never hated or wronged any one. This brave boy with me often prays—yes, before and since—with a true, sincere heart. Was it crime in him? If so, why can he pray the same? I do not wish to shed a drop of blood, but yet must fight the course. 'Tis all that's left me!"

Reflect now, dear reader, on the quotation from Byron, which we have previously quoted, and then answer the appeal Booth makes to your judgment in all the anguish of an infatuated mind. We do not believe, that success is the invariable touchstone, which Byron would make it. There are dubious characters, about whom the world's judgment is never final. Wallace failed, but time has not calumniated him. Cromwell succeeded, but time cannot rescue his character, even with the help of Carlyle, from certain duplicities and cruelties. Olden Barneveldt was beheaded, but time has placed him ahead of the perfidious Moritz, who held the throne. O'Connel died rich, and missed the fate of O'Brien, Mitchel, and Maher; but time is bringing out the fact, that all four were mischievous agitators, but that only in O'Connel's case was there dissimulation and sordidness besides. And coming to America, we think it is

evident by this time, that posterity will not mix in one indiscriminate judgment Benedict Arnold, Colonel Nicola, Captain Shays, Aaron Burr, the Hartford conventionists, the nullifiers of South Carolina, John Brown and his co-operators, Jefferson Davis, Booth, and the secessionists of our day, nor those who, after the war, loved again the whole country, and were denounced for it by the party in power.

We hope the nation will now sift the doctrine of treason itself, and modify it, perhaps extinguish it altogether. Benedict Arnold is so far the only man upon whom the name *Traitor* is irrevocably fastened. So let it stand.

And now one closing remark as to the secessionists. We think the fact, that they counted by thousands even as to the more prominent leaders, and by millions, if we include the masses that were as zealous in the cause, if not more so; and that, if we take in with them the so-called "sympathizers," they constitute the majority of the citizens; should admonish us, that the movement of 1860 was not treason, nor a rebellion, nor an insurrection, nor a sedition, nor a conspiracy, not even an attempted secession, but a fight between different portions of American society about misunderstood interpretations of the fundamental law. The seeds of constitutional morality, sown by patriot hands in 1787, were choked by the weeds of partisan animosities, planted by tendentious partisans; and the populations of 1860-66 had to fly at each other's throats, because American public men had cultivated weeds, instead of giving to the good seed of 1787 time and opportunity to grow. In such fights there are no victories; only a dreary waste of men and means.



## CHAPTER XXXIII.

*A PROGNOSIS OF AMERICAN POLITICS.*

"Life belongs to the living, and those that live must be prepared for changes."  
—Goethe.

THE title of this closing chapter will, we presume, be distasteful to American readers, because it implies, that politics are diseased here, and that they need a cure. But having taken, in the preceding chapters, the diagnosis of our patient, a prognosis had logically to follow.

No people on earth are so positively sure, in their own minds, that they are well and hearty in all their public relations, as that of the United States. They listen to and read the most fulsome flatteries of themselves and their institutions, without even suspecting that they are treated insincerely. So sure are they of their present and future healthfulness, that they trifle with reforms, as foolhardy individuals do with patent medicines. A few only, seeing the same or similar precipices ahead of our partisan strifes which have occurred before, think the way to public safety lies in a retracing of our public steps to a supposed previous correcter conduct of public affairs; and they prescribe as a remedy, a return to the ways of the so-called Fathers of the republic. We take as little stock in the hallucinations, as to the American past, as we do in those for the future; for our retrospect has furnished us only the causes of present ailments, and we have seldom, and then merely individually, met with wise suggestions for a better future. And our prognosis leads us to think, that this nation, though it spells itself with a big *N*, must get out of its political ruts and not run in them either backward or forward; on the contrary, it must reform its politics by the light of universal historic experience, and thus find truer principles and better practices in matters of government, than those, that have hitherto passed for sound in America.

American society is to-day but a vast field into which seeds of mischief are sown broadcast, and it has become:

"A wild where weeds and flowers promiscuous shoot,"  
with the decided advantage for the weeds. The tares are choking

the wholesome grain, and party politics are rapidly outgrowing the little left of true politics. Party contests are the all-absorbing object of the people, as well as of their servants, and we are therefore theoretically engaged in settling (in fact unsettling) our domestic affairs, but actually neglecting our foreign relations, especially those with our northern, southern, and south-western neighbors. A change in the right direction must be preceded by the comprehension, that geographical politics antedate as well as outlast institutional politics. Then the perception that Canada having the more outlying ports both on the Atlantic and the Pacific, and also military advantages on the lakes, it becomes us, the otherwise climatically favored, to cultivate friendly commercial and even fiscal relations, such as the German Zollverein with Canada, and not to waste their and our vitalities in tricky diplomacy or foolish as well as wicked war.

As to the West Indies we have not had for a long time a policy worthy of that name. Our present rulers may plead for their inaction, that their acts would be sure to be misconstrued, because the memories of attempts at the annexation of Cuba, &c., for the purpose of increasing the political power of the South in the Union, are too recent to allow a fair public judgment to be formed. The treatment, which Grant's Domingo negotiations received, favor such an apprehension; but the real truth is, that our authorities are cowardly before public opinion, and politically poverty-stricken as to international relations. Were it otherwise and they would know, that these annexation projects were the poorest as well as the least sagacious mode of dealing with neighboring lands; and particularly so where a free interchange of products is not only more natural but more civilized. Let the world know, and tell the countries specially alarmed at our grasping proclivities, that we seek no further annexations, but desire with them the free-est possible commercial intercourse, and they will no longer fear us. When the strong give, voluntarily, pledges of a sincere respect for a neighbor's territorial integrity, and evince their truthfulness by acts of kindness, then the weak may and will confide in them, and fall in with suggestions for an intimate and mutually beneficial commerce.

Our people think, that because they have had an easy part to play and played it easily, that they have played it well. And we are prone to make invidious comparisons against other nations, whose task has been difficult, and remains so in spite of much good government. We presume, that because they are still correcting their affairs, they are not progressing as fast and as well as we; but is not all political progress *correction*? Is there any

real progress, where there is no correction? In many branches of public administration, we appreciate this; and we evince the fact by our habitual mistrust of our authorities, and our adoption of substitutes. They are indeed full of danger to liberty, beside being more inefficient in fiscal management, than public administration should be. Our corporation and other social administrations of public matters, including of course our political parties, churches, trusteeships, and commissionerships, are a regress from higher political developments, and not an advance as we imagine. Hence, what lies mostly behind them in Europe—allowing public undertakings to be a source of private gain and speculation, and a cause of false distribution of wealth—it is still in full blast in this Union. And as we fell into and remain in this our defective condition, because we believed ourselves to have the best government and most superior politics in the world, the cure lies in our learning the opposite truth, and in dismissing for ever, as a standard of the quality of public authority, a minimum of feeble action, and adopting the truer criterion, that of public administration worthy of the utmost confidence, and deserving it by much and good work.

Europe has its "sick man," and cause of war and contention, in the East; we think to have ours in the South, whilst in reality our divisions have originated and will originate about the West; for there, as in Europe in the East, lie for us the acquisitions of easy wealth by appropriating masterless possessions. The exaggerated wrath at Aaron Burr's plans; the indignation at Sam Houston's operations in Texas, and their final adoption by the United States; the passionate anger at the repeal of the Missouri Compromise and its sequence secession, were one and all animosities very similar to those breaking out on the other side of the Atlantic between the great powers of Europe, whenever one wants to take territory for its aggrandizement, and the others deem this dangerous to their ideas of a proper political equilibrium. Europe, respectively England, will be cured of her spleens on this point when it is understood, that the recivilization of the East cannot fail to be good for all Europe. And this country will get over her agitations, when the public mind comprehends, that all western questions concern *all* our states, and that the West cannot for a long time develop in resources without benefiting every section of the Union. The same is true of Mexico, the West Indies, the various projects of canals over the Isthmus of Suez, the Nicaragua route, and that of Tehuantepec, including all such improvements in Mexico, whether running from the north to the south, or from east to west. The only question, that should be raised, is: Who will accom-

plish the works soonest and best? And so as to our own South. What retards her retards us. As Lincoln said: "We must be friends." Why then are we enemies?

Our bodies-politic are sick of many political verborosities and assumptions as to foundations of our public institutions and their administration; but sickest of all of the word "*people*." A French author says that we are "demo-malade." From the day when the phrase: "We the people of the United States" was first written into our federal Constitution, to 1880, when the only living *Ex-President* of the Union (Grant) demagogues upon it, the public mind has been and is at sea as to its definite meaning; and it has remained a flexible and litigious term to this day. The remedy lies in dropping the word and using in its stead: *Society*, distinguishing between inorganic and organic society, or, if you please, between social and political organisms. Take up at the same time the methods as well as rules of reasoning pursued by the best modern thinkers, such as have been referred to in these pages, and in a few years we shall have a healthy public mind as to the fundamental reason, sphere, and object of all government. And when we shall have sloughed off, all the indigestible nonsense about popular, state, or federal sovereignty, we shall find the true basis, viz: peaceable social interhabitation for purposes of human enhancement.

Then will go overboard another source of our political ailments, the conception, borrowed from false ideas as to the coherency of the universe, that the centrifugal is *per se* the securer tendency in politics. We shall see, that the necessary relations of social interhabitation cause fully as often the centripetal as the centrifugal currents. They arise from excesses in centralization or separatism. And the currents thus caused, run not merely nationally, but also locally and even in neighbourhood circles. Not the respective totalities or local societies seek or flee to or fro their totality and central unity; but the individuals within are in like diverse motion all the time. And what's more, these movements, though each of them is the necessary result of previous conditions, are none of them exactly right at any time, but ever seeking to be right.

"To be or not to be, that is the question."

True wisdom consists for this country in having at all times, in efficient condition, public organs and politic ways for enabling society to right itself, when it has gone aglee in either the centrifugal or centripetal directions; in other words: to be ever politically alive and active for its safety and happiness, with proper correcting processes.



What! will it be said: Do you mean to assert, that the past did not see the fundamental doctrines on which the American Union is to live for ever? Is popular, state as well as national sovereignty then: a delusion? Yea, and all other sovereignty, that has to give, as a justification for the exercise of its authority, no better reason than the fact, that it is authority. The American States as well as the American Union are incidents to an object, and not objects in themselves. That object is: we repeat it, peaceable social interhabitation. State lines are arbitrary divisions in nine out of ten cases, and organic society is always the product of more or less permanent necessities. Obey these and remove the impediments to the better organizations, which time requires. That is true of nearly all our state, county, and city formation now existing. How, then, can they be held sacred? Look at Germany and all its manifold territorial readjustments. The inherent central cohesiveness has survived all inner changes, while not one inner demarcation has remained intact. So it will be in America, and the Union will be the better the more it makes American society and all its common interests—call them *national* if you please—the object of its existence, and subjects all else to this criterion. No legal or political fictions should be allowed to intervene.

And in this connection we must once more protest against the further thoughtless use of the word “national.” It is never correctly applied, when it designates anything else than a higher *ethical* condition of politics. A federal government is always nationalized when its ethics are improved; but it is not so nationalized, when it merely holds together its members by force. A society whose one-half must have sleepless vigilance to keep the other half from ruining the country, is not national. It is party governed, and, if a Union, it is under poor federal ethics.

Not the country—for it may be an arbitrary construction—but its society, is the political object of institutions. Out of society issue the enslaving causes, and even disunion. A society that is party divided, will end in being generally divided; as our late conflict proves. The United States, as a land, are made for union; its society followed only natural hints when it formed and when it maintained a Union. And had it only followed the spirit in the country’s very nature, that of submitting to the inevitable; and as there are harmonizations, equalizations, and reconciliations meteorologically, so there would be politically. But that spirit was wanting since 1830, and is still wanting; and it is a lamentable fact, that it has transatlantic historic sources, that sprang up in the reformation. It will take an effort greater than any society is likely to be capable of, to

eliminate the false and to infuse the true spirit. The New England Union of 1644 broke up;—the Union proposed by Franklin in 1754 could not be formed;—and the present Union is disturbed, because we get our political inspirations from quarrelling sects. They have kept up among us the bitterness of partisanism. Instead of mothers of peace (public organs keeping the peace among themselves and for society), we have step-mothers (parties and sects exciting to discord). We see no remedy for this, except that American society becomes more organic and wipes out its standing parties and their evil spirit.

America's next most perplexing disease is the habit of its politicians to raise fictitious issues, and to beg the question on them besides.

What use are, at present, constitutional points on a Constitution habitually violated by all; whose President, Congress, and Judiciary have long ceased to be the normal organs intended by the fundamental law? What sense in talking about reforms of a government and its administration, which has been forced to surrender its most vital normal functions to corporations, parties, sects, and the lobbies of great pecuniary interests? Why ask a voting public, that casts its suffrages from partisan motives, to demand a civil service reform and relief from the curse that lies in the word "patronage"? Why ask substance from the shadow, after we have allowed it to become a shadow? These queries are intended to bring the real issues squarely before our minds, and to let us see, that we have set aside a government that was, by constitutional rule, under considerable responsibility and limited in power, and have substituted for it, in the main part, a government ruled by social elements, whose forces are now being intensified by enjoying political power, which are under no enforceable responsibility nor any tangible restraint.

To tell us, that universal education, meaning thereby our common schools, will in time find safeguards against this disintegration of constitutional government, is handing over both the present and the future to social administration and government; it is like attempts at flagging railroad trains after they have started. No! Present evils must have present counteraction; for in politics the true advice to give, as to remedies, is: Now is the day, now is the hour. Not alone our youth need education, but our adults need it also. And it is a singular infatuation in our politicians to expect, by speeches and publications during two months, to educate their adherents adequately, so as to be counteracting forces against undue political power. Forces that are active the whole twelvemonth, and drill their adherents

every week, if not every day. Their private meetings, sabbath-schools, pulpit oratory, press support, club lectures, and social influence, both male and female, must be met by as frequent meetings, as much counter-instruction, as competent editorials, and lectures; or the subversion, of regular government and normal public administration, will go on, and absorb finally again all power, as it once did in feudal times. The only difference will be, that we shall let them accomplish in a hundred years, what it took their predecessors to do in a thousand.

The colonial states confirmed a propensity to blame government for social ills, and a corresponding one: to concede it merits for good times. Both customs survive, and it would seem most unreasonably; for what can be more preposterous in a commonwealth really governed by the people, than to blame or credit their servants for doing what they ordered them to do and paid them for doing? We suspect, however, that behind all our self-flattery as to our democracy, we might, with perfect safety to ourselves, owe much more to our governments than we do. When we shall have administrations worthy of all confidence, because they are effective public agents, blame and praise may, according to their behavior, be appropriate; for then we shall hold them to strict responsibility.

Now, those in power attain praise for opposing and frequently for cheating their fellow-citizens. When *in* they act, as tyrants do, by the rule: "Who is not for us is against us," and use every means to fortify their power. To thank them for the good they do, because it strengthens them as a party, looks like the gratitude of the stalled ox, that is fattened for slaughter. But if those grumble at their partisan wrong, who would do like them, if in power, it is self-accusation and dishonesty besides; for their intention, to be partisan, if victorious at the election, gives license to false government. It recalls Cowper's words:

"Grave dissemblers cannot understand,  
That sin let loose means punishment at hand."

And our party governments are "sin let loose." It is monstrous, that American society will not understand this.

They fail to see it, because even amidst evidences of wrecks the flatterer's tongue will know how to lift a wailing people away from present facts to future fancies, until their eyes sparkle through their tears. One of the masters of this art was E. D. Mansfield; he was of an old family, that has an honored name. The community was impressed with his statistical reputation, and he was not slow to use it. He was selected as the

orator of Ohio at the Centennial; and he paid for the honor with encomiums and grand predictions. Let us see what he said of the future:—

“We know the resources of the country, its food-producing capacity, its art processes, its power of education, and the undefined and illimitable power of the human mind for new inventions and unimagined progress. With this knowledge it is not difficult nor unsafe to say, that the future will produce more, and in a far greater ratio, than the past. The pictured scenes of the prophets have already been more than fulfilled; and the visions of beauty and glory, which their imagination failed fully to describe, will be more than realized in the bloom of that garden which republican America will present to the eyes of astonished mankind. Long before another century shall have passed by, the single state of Ohio will present fourfold the population with which the thirteen states began their independence; more wealth than the entire Union now has; greater universities than any now in the country, and a development of arts and manufactures which the world now knows nothing of. You have seen more, than that, since the Constitution was adopted, and what right have you to say that the future will not equal the past?”

This extract from the official copy of the address delivered at the Centennial Exhibition in Philadelphia, August 9, 1876, by E. D. Mansfield, LL.D., exhibits the basis upon which most minds in America built up the future of their country. It rests on misstatements of the past, then creates a slipshod picture of the present, and erects on both a superstructure of misconceptions. In the same oration he said: “One hundred years ago the whole territory, from the Alleghany to the Rocky Mountains, was a wilderness inhabited by wild beasts and Indians,” and “the wisest statesman had not contemplated the probability of the coming states, and the boldest patriot did not dream that this interior wilderness should soon contain a greater population than the thirteen old states, with all the added growth of one hundred years.” This statement is not true! Franklin predicted, in his plan for two western colonies, 1754, a future fully as great as the one we see before us, and he gave the very reason, which has caused it, viz: “immigration attracted by cheap lands, a rich soil, a mild climate, healthy atmosphere, plenty of game, great rivers, and the lakes.” He also then stated, that the French had effected many settlements in the West; and they are mentioned in the very Ordinance of 1787, to whose influence Mr. Mansfield attributes Ohio’s greatness, populousness, and prosperity. Consider now also



the undeniable fact, that Mr. Mansfield had then officially before him the statistics that proved, that Ohio's growth presented a steadily diminishing ratio; and that the former larger increase was due to immigration. It was, therefore, an inexcusable peroration, to claim an equal progress for the future, and it was impudence to predict a still bigger hereafter.

What is ever being overlooked, in such speculations as to the future, is, in the first place, the steady transition of the earlier American society from conditions, that enabled the population to be more than self-sustaining. Their habits were first close-fisted (we cannot call them economic). But their children caused increased expenditures, whilst the adults became less thrifty, and the elder youth inclined to and were stimulated into profuse living. They fail to take into account, in the next place, the discouragement of immigration by higher land prices, which causes a slackening in the ratio of increase in population; the steadily diminishing fertility in the soil, and the harder work it takes to raise crops. They forget, thirdly, the still more important items:—the change in personal character in consequence of the all-absorbing zest for being rich,—the depression of the moral tone by a hot pursuit of and wild contest for wealth; and the unwillingness to obey any ethical public will that acts as a restraint on their greed for riches. In short, they fail to see, that the thing which is the basis of all morality and economy—a society, that is ever becoming more organic (ethical) in consequence of a healthy reaction on itself—is but little in flow in America; and that far from growing better, as it counts more dollars, it is really growing worse. The United States and territories were, as a government, never really well one moment of time. The *Articles of Confederation* never had a fair trial, nor was the Constitution of 1787 really satisfactory to either the Hamiltonian or Jeffersonian school of politics. The primary abnormal increase in wealth and population caused unhealthy characteristics in social conduct; and the unexpected falling-off that followed added moroseness to those faults; so that all acts for a re-growth were and are being started on a defective basis. And—mark it!—public administrations have ever borne the imprints of these things on their face and conduct.

No greater error can be committed, than to measure the future of the United States by the past, and to do it as our Mansfields are ever doing, by geometrical rule of progression. A young married couple might just as well estimate their whole married life by their honeymoon.

Exceptional conditions must never be used as a basis for finding the long future of a people. The circumstances under

which first settlements were effected in the United States are gone for ever ; diseases have set in ; and the only standards for a true prognosis are the political habits and aims which early errors in living have engendered. How long present ones will last, and how soon and how they will be modified, depends on the depth of the impression they have made ; and how far they are in harmony with the nature of the country, and that of the race that adopted them, will in time be known. The Yankee character with its hot haste to be rich, its pretentious religion, its sharp dealing and acute thinking, appears firmly set ; the New Yorker's liberal commercial ways, his gormandizing habits, and love of display seem to grow rather than diminish ; New Jersey, Pennsylvania, Delaware, and Maryland are rapidly settling into characteristics that will have a mixture, or rather blending, of the several traits of Franklin, Witherspoon, Mühlenberg, and Carrol of Carrolton. The Virginian of the future will evidently not be the Virginian of the past. No more Washingtons, Madisons, Lees, nor Brokenbroughs, or even H. A. Wises will ever develop there again. Slavery, the blood of the cavalier, and the large plantations are gone, and with them the elements of the old Virginian character.

And all over the South the abolition of slavery, and the new social and economic conditions, which this act has brought and is bringing about, are changing society there radically. Old prejudices are becoming confirmed dislikes ; and the peoples' memories are and will be full of withering regrets. The relation too of the negro to American society is an unsolved riddle all over the United States ; but in the South it is past finding out. It has ever acted as a cause of degradation for the white race, and we see no reason for hoping a reversal of these effects. Low kings make low courtiers, and low democracies make low politicians. Our parties already fawn upon the negro.

What can we expect from this steady lowering in the character of our public men ? Political science tells us, "that there are things on earth, which can be cured only by destruction." The ancient Athenians wittily expressed this idea when they exclaimed, during the disputes of Phocion and Demosthenes : " If we are not ruined soon, we cannot be saved ! " Negro importation, slavery over the negroes, its wild abolition in 1864-65, and giving them the elective franchise soon after, are all but a series of social and political transformations, which have placed American society politically on the inclined plane to questionable politics.

The other elements of our population did not always affiliate readily, but they could and did end in acquiescence, because all brought more good than harm to society. Of none except

the negro, do nearly all white Americans say: "Would that not one of you ever had been brought to America!" Even the Chinese, hated as they are by some, would not, if they departed to-morrow, be let go with the unanimous breath of relief, that would follow the last departing negro.

The worst thing that can be done to any society is to furnish its worser elements tools for their vices. And we can know at once the effect, which false negro liberty, the twin-brother of wrong negro slavery, must have on American society, if we bring our prominent vices and proclivities before us. They are: unhallowed ambition, a disinclination to economize and to save and lay up capital, with a love of luxury and expensive as well as ostentatious habits. Negro slavery has imprinted its effects on this point chiefly through the mulattos and the other mixtures, on the whites. Negro liberty exhibits it most pointedly by a general voting prostitution, such as the world has never seen. The sources of great futures for nations, which the sages of history have delineated for us, must therefore gradually dry up under these circumstances. For how can there be the peace, quietness, and rest which is the precondition of all high culture; how the secured wealth in families that flows from confirmed habits of industry, enterprize, and frugality; how the measured liberty that springs from respect for other's rights; how the religion that is cultivated by a moral service free from worldly care; how the good public administration that comes from an educated and disciplined body of officials; how the public spirit that turns dangerous popular divisions into harmless personal differences of opinion; how, especially, the conventional, social good feeling which not only tolerates without ill-temper, but invites differentiation in manners, customs, morals, and politics; how, we ask finally: can these things be secured in a society in which so many are tempted to rowdyism, to libertinism, to foul ways for getting offices or jobs? Is not the aversion to be restrained, intensified by a body of negroes ready to their hand and to cater to vice, to support mean ambition, and to encourage extravagance? Are we not right in predicting, that posterity will yet see, that the greatest crime committed against our society was, not to provide long ago a proper exodus for the negro to some land near the Gulf of Mexico?

We are certainly a queer people! It has been a question whether human society could exist without one or more of the good stand-byes just named; but we dream of a good future for a society, that is without them all! We so dream, because amidst our wanderings and settlements, so far, we have

grown in riches and population, in spite of our defective political organisms !

While preparing for and writing our book, we had to perceive, that though American society was the most progressive in all ways that save human labor and ease work, it is the tardiest in all matters relating to scientific development in religion and politics ; and we could find no reason for this difference, than that given by Lessing for the tardiness of France, for several decennials after Molière and Racine, in producing great dramatists, viz: they believed themselves to have in them the highest models, and they therefore, as mankind will ever do, when they conceive themselves perfect, kept imitating their models, and fell into a standstill sameness that retarded genius.

The belief of Americans, that in their "separation of church and state" they have true religious liberty, and that in their Constitutions, with a free (?) press and free (?) speech, as well as free (?) voting, they have the *ne plus ultra* of democracy and republicanism, has acted and is acting similarly in the United States. No such belief could exist as to hard work and labor, because the motive for new inventions was ever pressing for tools and machinery, so as to save cost for hired labor, and to avoid the vexations their demands cause in American family life. As to political institutions and practices it was otherwise, and we mistook it for harmonization. A greater error could not well be committed. In Europe, at the beginning of the Middle Ages, existed a similar error among the tribes, that had caused the great migration that had overrun and resettled Europe on the basis of their primitive feudal order. They thought, that institutions, that were good while migrating, conquering, and dividing spoils, would also prove proper for building up a well-settled, perennial, social interhabitation. They were, as we now know, mistaken. And so our folks err in thinking that the passion for riches by sharp wit and energetic action, that kept us moving in perpetual unrest, and in conditions in which we could say of government :

"We want but little, nor that little long,"

was and is safe and good for establishing our social and political relations in permanent peace and quietness. We have indeed *one* President, *one* Congress, *one* Supreme Court ! And in every state identical governors, legislatures, and judicial tribunals—plus elections ! So also almost the same municipal organs all over the land ! And slavery has had to yield to



this spirit of unification ! And we argue therefrom, that : there is to be *one* language and one universal avoidance of wine and beer and whisky ? Will we not all take to water ? Shall there not be one and the same gospel freedom and church attendance everywhere ? Thus our public goes on tickling itself.

The answer time will give to these queries will depend upon the degree to which America can keep herself out of the renaissance, or, if the word is preferred : the new impetus given to comparative knowledge by an accelerated and improved intercourse and interchange of knowledge between nations. There can be no doubt, that European society is obeying this impetus with a higher will, than American society ; and we know of no reason for this, than that its statesmen and political scientists have never abandoned the truth : that beside all negative enfranchisement, there must always be positive organic development. The United States have relied mostly on negative provisions, such for instance as the prohibition to the State to make anything but gold and silver a legal tender, or that "Congress shall make no law respecting an establishment of religion," or like negative clauses. They lacked the positive fundamental rule as to where the authority resides, that is to be constantly setting things to rights again after they get wrong. We have written and talked so much of states-rights that the right state has never had even birth, much less growth and development. The remedy for this malady, is the abandonment of the presumption, that our politics are correct ; and our placing ourselves within the pale of universal progress in matters of church as well as state.

Events in Europe must be of interest to us not merely as news, but as solutions of problems, which are also before us in essence, however different their special form may be here. Germany's and Switzerland's federative development should ever be our study, not for imitation, but for comparative research in jurisprudence. Their best jurists are meditating on our politics ; why not ours on theirs ? Shall it continually be said of us with truth, that "Americans keep to their light reasoning, because thorough study is too hard for their mental discipline" ?

What came to the barons of the Middle Ages, will, in a modified form, come to the United States. The feudal lords had to set society, spoiled by a wild life, right, by introducing the civil law worked out by populations enjoying a civilized life. It was done in different places by various stages and degrees, but more or less everywhere. So will American society have to correct its manifold lawless conditions by the light of

experiences gathered in Europe, and there worked out into institutions and political governments that are compatible with a settled and peaceable populous social interhabitation. Our elections, with the preceding campaigns, are now so costly, so demoralizing, and so dissentious that many citizens would purchase a relief from them, with the loss of the political liberty which they are claimed to embody. The surface social prosperity which arises from opportunities to shift from a society, aground on its own mismanagements, to new settlements with their blank pages for new mistakes and wrongs, is still hiding the truth from many Americans that are thoughtless. But these opportunities are diminishing, while the diseases in the home society are growing; and sooner or later the time must come, when all will see that American society cannot lift itself out of its ailings by its own wristbands (elections and agitations), and that it must look to examples for the better reorganizations to other nations, especially Europe; for there the necessity of keeping society in order by good political organisms and efficient public administrations is so irrepressible, that it *must* solve its public questions and not put them off, as is the custom in America, by self-adulations.

There may be an interval, when the European source of wisdom for us may seem like a forgotten thing; we may be in that interval now; but a revival will come, that will act upon America like the "renaissance" of Europe did, when Aristotle was again brought to the cognizance of Europe, and comparative knowledge was again reinstated into its rightful influence. Such a revival is the more certain, because European society has itself begun a higher existence by the aid of modern industrial mechanic and scientific improvements, and is solving its religious, moral, and political problems through statesmen of the highest order of intellect, virtue, and wisdom. The United States cannot, if they would, isolate themselves and freeze up in its own superciliousness; because the increasing intercourse between Asia and Europe must use America as its medium; and our own prosperity and right relation to the world requires, that we should be this medium in the highest and best mode, and in a degree superior to other American nations. What impelled lately an energetic officer of the post-office in Washington to order the conveyance of a delayed mail from China at extra cost and by special trains, really in violation of strict law, will, in other ways and for other objects, present itself to our public mind, until the cosmopolitan spirit will get the upper hand again, as it did in Franklin. The effect on America will, however, be more various, and therefore deeper, than ever before;

and the product cannot fail to be a more decided correction of social and political, and also religious conditions, than any that have preceded it. We hope and wish that America shall then share fully in these rectifications.

Obsolete Catholicism, obsolete Protestantism, obsolete sovereignty of every political hue and intensity, as well as obsolete partyism, will then greet each other as they go down before much truer religion and politics. Our politics will not be as De Tocqueville describes them: "a process without guidance, without preparation, without knowledge, and against the consent of the heads of society." Nor will it be: "a democracy abandoned to wild instincts, acting like children who have no parental guidance, who receive their education in the public streets, in meetings, and by reading newspapers; the supreme power will not rule by caprices, nor be worshipped as an idol of strength, whilst really enfeebled by its own excesses." Genius will then be free; master-minds will not be feared; mediocrities will be avoided. A Hayes and a Jef. Davis will alike be impossible.

Then will come a reconstruction, that will embrace not the general government alone; but also the states, the cities, counties, and other municipalities, and their now wild rivalries will find their harmonizations in a government, that has unity with multifariousness, and all in proper graduations, co-operations, and co-ordinations as to the respective spheres and functions. Our children's children will have less mock freedom, but more true liberty.

The press, now the friend in our public life, and tending to be America's hierarchy, will no longer toss upon its horns Presidents, Congresses, and Judiciaries; for the country will no longer be a mere leviathan newspaper reign; public reports, books, and scientific and philosophic publications will take their place; and then this people will have some standard in its reading, and they will not be mere gormandizers of news; in short, the press will not be a standing menace, nor a source of daily mental dissipation, but a school in the best sense for the adults in society.

Such is our prognosis of American politics. It rests on the observations made of the many distempers that prevail in America, and the conclusions drawn therefrom, for which we adopt Grote's words:—

"I have outlived three great illusions; first: I always held, that if supreme power were held by the people it would be exercised more righteously than when intrusted to one person or a few; but this I have found to be a mistake. I have outlived my faith in the efficacy of a republican government,

regarded as a check upon the vulgar passions of a majority in a nation. And I now recognize the fact, that the supreme power lodged in their hands may be exercised quite as mischievously as by a despotic ruler like the first Napoleon."

And if we are now asked to state the remedy for American political ills, we have to say, that it lies in our public mind mastering the deep truth of the words of the wise Buchez: "L'Existence de liberté supposait l'existence du pouvoir."

THE END.







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